

By Mr. VARE: Memorial of Equal Franchise Society, of Philadelphia, Pa., favoring suffrage amendment; to the Committee on the Judiciary.

By Mr. VOLSTEAD: Petition of farmers of the State of Minnesota, relative to advance in the price of sisal fiber; to the Committee on Agriculture.

By Mr. WICKERSHAM: Petition of citizens of Ketchikan, Alaska, praying for the passage of Alaska halibut amendment to the House revenue bill; to the Committee on Ways and Means.

SENATE.

TUESDAY, February 20, 1917.

The Senate met at 10.30 o'clock a. m.

The Chaplain, Rev. Forest J. Prettyman, D. D., offered the following prayer:

Almighty God, we lift our hearts in humble, fervent prayer that we may have the Divine light upon our pathway this day. In the journey to which we at this time commit ourselves may we have the accompanying inspiration and light of the Divine presence. We have found that when we have exhausted all the resources of our human life still there are unsolved problems before us. There are questions pertaining to the eternal and the changeless and the absolute that must be solved only by the inspiration that Thou canst give to Thy servants who commit themselves to Thy will. Do Thou look upon us this morning and endue us with heavenly wisdom, that we may discharge the duties of this day in Thy sight and accomplish all Thy perfect will in us. For Christ's sake. Amen.

Mr. BRANDEGEE. Mr. President, I rise to a question of order.

Mr. TOWNSEND. I was going to suggest the absence of a quorum.

Mr. BRANDEGEE. I do not think that can be done when I am raising another question of order.

Mr. TOWNSEND. Very well; I do not care to insist on it.

Mr. BRANDEGEE. If the Chair will look at page 4014 of the RECORD, at the bottom of the second column, it appears that last night the Presiding Officer announced that "35 Senators have answered to their names. There is not a quorum present." Thereupon, on the first column of the next page, it appears that Mr. REED moved "that the Sergeant at Arms be directed to request the attendance of absent Senators. The motion was agreed to."

A little further down Mr. FLETCHER said:

Mr. President, I know that no business is in order. I think we ought to procure the attendance of absent Senators, and we ought to proceed with the business of the Senate.

Whereupon Mr. KENYON said:

Mr. President, I make the point of order that no business is in order. The PRESIDING OFFICER. The point of order is sustained. No business is in order.

Mr. KENYON (at 7 o'clock and 25 minutes p. m.). I move that the Senate adjourn.

Later on:

Mr. KENYON. I withdraw the motion, but I shall renew it in a little while.

Mr. OVERMAN. I move that when the Senate adjourns it adjourn to meet at half past 10 o'clock to-morrow morning.

The Chair will bear in mind there was no quorum present. The standing order of the Senate is that the Senate shall adjourn to meet at 11 o'clock. No other hour could be fixed for meeting in the absence of a quorum. Nothing was in order except to procure a quorum or to adjourn. I make the point of order that the Senate can not come in session until 11 o'clock.

Mr. OVERMAN. The Senator is right. I agree to it.

The VICE PRESIDENT. The Chair sustains the point of order.

Thereupon the Senate (at 10 o'clock and 35 minutes a. m.) dissolved to reassemble at 11 o'clock a. m.

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

We thank Thee, Almighty God, that Thou dost continually stir up within us an aspiration after the highest and the best. Thou hast taught us in Thy Word what is the chief good, and that we are to attain it by doing justly, loving mercy, and by walking humbly with God. We pray that the path of this day may contain within itself the effort on the part of each one of us to attain unto this highest good, that we in our outward lives may do justly, that in our inward spirit we may love mercy, and that in our upward life we may walk humbly with God. We ask for Christ's sake. Amen.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Beckham	Husting	Newlands	Sterling
Borah	Johnson, Me.	Norris	Stone
Brady	Johnson, S. Dak.	Overman	Thomas
Brandeggee	Jones	Page	Thompson
Bryan	Kenyon	Pittman	Townsend
Catron	Kern	Polindexter	Underwood
Chamberlain	La Follette	Pomerene	Vardaman
Colt	Lane	Ransdell	Wadsworth
Cummins	Lea, Tenn.	Robinson	Walsh
Curtis	Lee, Md.	Shafroth	Warren
Fernald	Lodge	Sheppard	Watson
Fletcher	McCumber	Sherman	Weeks
Gronna	McLean	Simmons	Williams
Hardwick	Martine, N. J.	Smith, Md.	Works
Hollis	Nelson	Smoot	

Mr. CURTIS. I desire to announce the unavoidable absence of the Senator from New Hampshire [Mr. GALLINGER]. He is paired with the Senator from New York [Mr. O'GORMAN]. I will let this announcement stand for the day.

Mr. VARDAMAN. I desire to announce the unavoidable absence of the Senator from Tennessee [Mr. SHIELDS] on account of illness.

Mr. CURTIS. I desire to announce the absence of the Senator from Ohio [Mr. HARDING] on account of illness. This announcement may stand for the day.

Mr. MARTINE of New Jersey. I rise to announce the absence of the senior Senator from Oklahoma [Mr. GORE] and the junior Senator from Illinois [Mr. LEWIS], both on account of illness. I ask that this announcement may stand for the day.

Mr. LEA of Tennessee. I have been requested to announce that the senior Senator from Kentucky [Mr. JAMES] is detained on official business.

Mr. WALSH. I have been requested to announce that the Senator from Delaware [Mr. SAULSBURY] is detained from the Senate on account of illness.

Mr. OVERMAN. I desire to announce that the Senator from Texas [Mr. CULBERSON], the Senator from Missouri [Mr. REED], the Senator from Georgia [Mr. SMITH], and the Senator from Vermont [Mr. DILLINGHAM] are absent on official business of the Senate.

Mr. SMOOT. I desire to announce the unavoidable absence of my colleague [Mr. SUTHERLAND].

The VICE PRESIDENT. Fifty-nine Senators have answered to the roll call. There is a quorum present. The Secretary will read the proceedings of the preceding session.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by E. T. Taylor, jr., one of its clerks, announced that the House had passed the following bills:

S. 1068. An act relating to desert-land entries;
S. 1697. An act to declare Ollala Slough in Lincoln County, Oreg., nonnavigable;
S. 2543. An act for the relief of the State of Kentucky;
S. 6654. An act to validate a patent to certain lands heretofore issued to the State of Florida; to allow the said State to claim certain other lands, and for other purposes;
S. 7796. An act authorizing the Secretary of the Interior to sell and convey to the Great Northern Railway Co. certain lands in the State of Montana for division terminal yards and other railway purposes, and for other purposes;
S. 8044. An act providing for the extension of time for the reclamation of certain lands in the State of Oregon under the Carey Act; and
S. 8079. An act to amend the first and seventh paragraphs of section 4414 of the Revised Statutes of the United States as amended by the act of April 9, 1906.

The message also announced that the House had passed the bill (S. 40) to authorize agricultural entries on surplus coal lands in Indian reservations, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 1792) for the relief of settlers on unsurveyed railroad lands, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 7644) to create a new division of the northern judicial district of Texas, and to provide for terms of court at Wichita Falls, Tex., and for a clerk for said court, and for other purposes,

with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 5450) to amend section 108, chapter 5, of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 5612) providing additional time for the payment of purchase money under homestead entries of lands within the former Fort Peck Indian Reservation, Mont., with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 5716) to establish the Mount McKinley National Park, in the Territory of Alaska, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the joint resolution (S. J. Res. 50) authorizing the Secretary of the Interior to sell the coal deposits in and under certain public lands to the Republic Coal Co., a corporation, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House further insists upon its amendments to the bill (S. 3331) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, and to provide for the improvement and development of waterways for the uses of interstate and foreign commerce, disagreed to by the Senate, agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ADAMSON, Mr. SIMS, and Mr. ESCH managers at the further conference on the part of the House.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 5788. An act to create two additional associate justices of the Supreme Court of the District of Columbia;

H. R. 10110. An act to increase the salary of the United States district attorney for the district of Rhode Island;

H. R. 11706. An act to amend an act entitled "An act to prevent the disclosure of national-defense secrets," approved March 3, 1911;

H. R. 13166. An act authorizing the Commissioner of Indian Affairs to transfer fractional block 6, of Naylor's addition, Forest Grove, Oreg., to the United States of America, for the use of the Bureau of Entomology, Department of Agriculture;

H. R. 17646. An act to amend section 6 of an act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes, approved March 14, 1900, as amended by the act of March 4, 1907, by the act of March 2, 1911, and by the act of June 12, 1916;

H. R. 18825. An act to amend an act entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year 1915 and for prior years, and for other purposes";

H. R. 18826. An act to relieve the owners of mining claims who have been mustered into the service of the United States as officers or enlisted men of the Organized Militia or National Guard from performing assessment work during the term of such service;

H. R. 18894. An act to amend the public-building act approved March 4, 1913, authorizing the acquisition of a suitable site for a public building at Pittston, Pa.;

H. R. 19233. An act to increase the salary of the United States marshal for the western district of Michigan;

H. R. 19771. An act to renew patent No. 24917;

H. R. 20228. An act to renew patent No. 25909;

H. R. 20414. An act for the establishment of a probation system in the United States courts, except in the District of Columbia;

H. R. 20755. An act to provide a temporary government for the West Indian Islands acquired by the United States from Denmark by the convention entered into between said countries on the 4th day of August, 1916, and ratified by the Senate of the United States on the 7th day of September, 1916, and for other purposes; and

H. J. Res. 334. Joint resolution authorizing the President to appoint delegates to attend the Tenth International Congress of the World's Purity Federation, to be held in the city of Louisville, State of Kentucky, November 8 to 14, 1917.

PRISON-MADE GOODS.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a further report relative to the extent to which prisoners, paupers,

or detained persons are utilized in the production and manufacture of articles sold in the commerce of various countries, which was referred to the Committee on Printing and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT. The Chair has received a communication from the speaker of the House of Delegates of Porto Rico, which will be printed in the RECORD and referred to the Committee on Pacific Islands and Porto Rico.

The communication is as follows:

[Cablegram.]

SAN JUAN, P. R., February 17, 1917.

TO THE PRESIDENT OF THE UNITED STATES, UNITED STATES SENATE, HOUSE OF REPRESENTATIVES, CHIEF OF THE BUREAU OF INSULAR AFFAIRS, WAR DEPARTMENT, Washington:

Consistent with repeated previous petitions, house of delegates today unanimously passed resolution praying Congress to transfer to Supreme Court of Porto Rico jurisdiction of Federal court or to restrict the same in accordance with original section 42 of House bill 9533, to authorize proceedings in said court both in Spanish and English, and to insert section 35, Foraker Act, without part relative to Federal court instead of section 44. Full text of resolution by mail.

JOSE DE DIEGO, Speaker.

Mr. NEWLANDS. I ask unanimous consent that the bill (H. R. 308) to amend the act to regulate commerce as amended, and for other purposes—

Mr. LODGE. I object at this stage until the routine business is concluded.

Mr. NEWLANDS. That the act proposing to enlarge the membership of the Interstate Commerce Commission be taken up—

The VICE PRESIDENT. There is objection.

Mr. LODGE. I ask for the regular order. I think we ought to be allowed to dispose of our routine business.

Mr. NEWLANDS. It seems to me the Senator might well let me conclude my remarks before making the objection.

Mr. LODGE. It is because I want to save time; that is all.

Mr. NEWLANDS. Yes; but there is an orderly and courteous way of proceeding.

Mr. LODGE. I present resolutions adopted at a town meeting of citizens of Yarmouth, Mass., in support of the President's action in severing relations with Germany. I ask that the resolutions be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the resolutions were referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

YARMOUTHPORT, MASS., February 16, 1917.

HON. HENRY CABOT LODGE,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I beg to advise you that at the annual town meeting of Yarmouth held on February 13 the following resolutions were unanimously adopted:

"Resolved, That we, citizens of the town of Yarmouth, Mass., in town meeting assembled, indorse the action of the President of the United States of America in severing diplomatic relations with Germany."

"Resolved, That we, loyal citizens of the old town of Yarmouth, pledge to our President our undivided support in any course necessary to protect our flag and our citizens and maintain the rights of our country."

THOMAS C. THACHER,
Former Congressman, Chairman of Committee.
WILLIAM M. STETSON,
Representative in Massachusetts House of Representatives.
T. W. SWIFT.

With my best wishes,
Faithfully, yours,

THOMAS C. THACHER.

Mr. LODGE. I present resolutions adopted at a meeting of the electrical, civil, and mechanical engineers of New England, held in Boston, Mass., pledging their support to the Government in the maintenance of American rights. I ask that the resolutions may be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the resolutions were referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

WENTWORTH INSTITUTE,
Boston, February 14, 1917.

HON. HENRY CABOT LODGE,
United States Senate, Washington, D. C.

DEAR SIR: I am instructed to transmit to you the following resolutions which were passed at a professional gathering of 453 engineers from all parts of New England without a dissenting vote:

"In view of the grave crisis which our country is now facing and in recognition of the stand recently taken by the President of the United States for the protection of American rights and American lives on the sea—

"Do it resolved, That we, the members of the convention of New England electrical, civil, and mechanical engineers, held jointly in Boston Wednesday, February 7, 1917, first do pledge ourselves to the support of the President and Congress in the hope that our rights may be obtained by peaceful means; and second, that we pledge ourselves likewise to the utmost of our powers and our service, in case our country is forced into war, as the only means of maintaining all our rights, freedom, and safety the world over."

"Be it further resolved, That a copy of these resolutions be sent to the President at the White House in Washington and to every Senator and Representative from New England."

Yours, very respectfully,

ARTHUR L. WILLISTON,
Chairman of the Boston Section of the
American Society of Mechanical Engineers.

Mr. LODGE presented a petition of the Board of Trade of Springfield, Mass., praying for an amendment to the Panama Canal act to permit the continued operation of steamships by the New York, New Haven & Hartford Railroad Co., which was referred to the Committee on Interstate Commerce.

Mr. McCUMBER presented petitions of sundry citizens of Hebron and Fordville, in the State of North Dakota, praying that the question of war be submitted to a referendum of the people, which were referred to the Committee on Foreign Relations.

He also presented a petition of the Commercial Club of Larimore, N. Dak., praying for the enactment of legislation to provide for a system of national highways, which was referred to the Committee on Agriculture and Forestry.

Mr. WARREN. I present a petition in the form of a memorial of the Legislature of Wyoming. It happens to bear no signatures, but the letter which accompanied it vouches for it. It relates to a matter concerning which I introduced a bill a short time ago. I ask that it be printed in the RECORD.

The memorial was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Senate enrolled joint memorial 2.

Be it resolved by the Senate of the State of Wyoming (the House of Representatives concurring), That the Congress of the United States be memorialized as follows:

Whereas there are large areas of lands in Wyoming which are suitable for and susceptible to irrigation, there being also a sufficient water supply, if carefully conserved and economically used, to properly reclaim this entire area, and since it is of the highest public advantage, both to the Nation and State, to reclaim and colonize these potentially fertile lands as rapidly as possible; and

Whereas to-day in Wyoming we have hundreds of thousands of acres of unoccupied lands which are commanded by completed irrigation systems, and since failure to successfully settle these lands has emphasized the necessity of considering the great human problem involved; and

Whereas a study of this problem has led to the following conclusions:

(a) That we can not bring successful settlement to these lands under our present system and policies.

(b) That in settling these lands we must look chiefly to the men of small means, who must depend mainly on frugality and industry, and that such settlers working unaided and alone can not hope to succeed.

(c) That since there is no enacted legislation, either Federal or State, which will aid the new settler in the arduous, costly task of transforming raw, sagebrush land into an irrigated farm, there is urgent need of immediate and appropriate legislation both by Congress and our State legislature.

(d) That the plan of State-aided settlement must include a permanent, revolving fund, to be invested, under capable and careful control, in the first essential improvements of raw land and in loans to qualified settlers for such improvements, necessary materials and equipment, the money so invested to be repaid by the settlers, with a low rate of interest, on the long-time amortized plan. In addition, there should be oversight and direction in irrigation and cultivation and help in cooperative purchase of implements and live stock, in order to prevent costly mistakes and promote the spirit of agricultural cooperation and of community rather than individual action.

(e) That Wyoming at this time has no source of revenue from which the necessary fund for this work can be derived: Now, therefore, be it

Resolved, That the Congress of the United States be earnestly urged to take early and favorable action which will provide a permanent fund to be held in trust by the State of Wyoming and invested in State-aided settlement of our irrigable lands; and that as a means of providing this fund we suggest the advantages and necessity of setting aside 2,000,000 acres of public lands, to be selected, appraised, and sold by a board consisting of Federal and State authorities, the proceeds to be invested by the State in loans to qualified settlers on irrigable lands and to have as security a first lien on the lands and improvements; and that the fund so provided and used shall, together with accrued interest, be returned to the Federal Government after it has served its purpose in this great work; and be it further

Resolved, That a certified copy of this memorial be sent to each of the Members of the congressional delegation from the State in Congress, the Secretary of the Interior, and the Commissioner of the General Land Office, with the request that they employ their best efforts to secure favorable action from Congress along the lines indicated.

Mr. KIRBY. I present a memorial adopted by the Legislature of the State of Arkansas, which I ask may be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

To the honorable Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the senate and house of representatives of the State of Arkansas in legislature assembled, being the forty-first regular session, most respectfully petition as follows: That—

Whereas the importance of prompt and accurate record of births, deaths, and communicable diseases is now recognized by all civilized countries as of direct benefit to the Nation; and

Whereas the reporting of these births, deaths, and communicable diseases is now required by Federal and State laws, and it being for the general welfare of the public, your memorialists believe that this expenses, in so far as postage is involved, should be borne by the public; and

Whereas the education of the people by means of printed matter pertaining to the preservation of health is conducive to the general public welfare: Therefore

We petition the Congress of the United States to authorize the franking of all reports of births, deaths, and communicable diseases to the proper officer, and all printed matter of an educational character issued by the State Board of Health to the people of the State in which such matter is issued.

Mr. CHAMBERLAIN presented a petition of sundry citizens of Joseph, Ore., praying that the United States remain at peace, which was referred to the Committee on Foreign Relations.

He also presented a memorial of sundry citizens of Whiteson, Ore., remonstrating against the United States becoming engaged in the European war, which was referred to the Committee on Foreign Relations.

Mr. WADSWORTH presented petitions of sundry citizens of New York, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. WEEKS presented petitions of sundry citizens of Massachusetts, praying for national prohibition, which were ordered to lie on the table.

Mr. NELSON presented a petition of the St. Paul (Minn.) Association, praying for the passage of the so-called Webb bill relating to the export trade, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Morris, Minn., approving the course of the President in the handling of international affairs, which was referred to the Committee on Foreign Relations.

Mr. HUSTING. I present a petition from E. B. Wolcott Post, No. 1, Grand Army of the Republic, Department of Wisconsin, which I ask may be printed in the RECORD.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

E. B. Wolcott Post, No. 1, Grand Army of the Republic, Department of Wisconsin, in this solemn hour of America's peril, recalls with pride the prompt, uncompromising support tendered the President of the United States and the National Government by the State of Wisconsin in the black days of the Civil War. The splendid patriotism exhibited, and the glorious record made by the State in that great conflict, constitute its proudest history.

Our fighting days are over and we love peace, but when the honor of America and the lives and rights of our people are assailed by foreign foes and domestic traitors our national existence demands the unqualified and unflinching loyalty of all citizens. We stand for one country and one flag.

Mr. WATSON presented a memorial of District No. 11, United Mine Workers of America, of Terre Haute, Ind., remonstrating against the United States becoming engaged in the European war, which was referred to the Committee on Foreign Relations.

Mr. PHELAN presented a petition of the Master Painters and Decorators' Association of the State of California, praying for the enactment of legislation to provide for the standardization of paints, oils, and turpentine, which was ordered to lie on the table.

Mr. MARTINE of New Jersey presented a petition of sundry citizens of Salem, N. J., praying for the enactment of legislation to found the Government on Christianity, which was referred to the Committee on the Judiciary.

OIL-LEASING BILL.

Mr. WORKS. It is quite evident now that the oil-leasing bill will not be reached for consideration during the present session. There is a very general misunderstanding of the facts relating to some of the provisions of the bill. I have here a statement by ex-Gov. Thorne, of Kentucky, in the form of a letter to the chairman of the Naval Committee, intended to correct some of the mistaken statements which have gone out. It is very brief, and I ask that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D. C., January 25, 1917.

Senator BENJAMIN R. TILLMAN,
Chairman Committee on Naval Affairs, United States Senate.

DEAR SIR: In order to prevent, so far as possible, a gross injustice from being done, and perhaps an irreparable wrong from being committed by a misstatement of facts upon a vital question, I beg to call your attention to the following with the hope that such steps as you and your committee may deem advisable may be taken in the premises.

It appears at page 71 of the printed record of "Hearing before the Committee on Naval Affairs, United States Senate, Sixty-fourth Congress, second session, on the so-called relief provisions of the leasing bill relative to the California Naval Petroleum Reserve," said hearings having been held before your committee January 17, 1917, that in response to an inquiry from Senator PITTMAN, Mr. Justice, of the Department of Justice, made the following statement:

"Senator PITTMAN. Do you approve the decision in the Obispo case?"
 "Mr. JUSTICE. I certainly do. I invite your attention to the fact that the commissioner, who found the same as the judge, found that these locators—that these McCutcheons were fraudulent locators and claimants, and also found they had not diligently worked on that section. He found the facts as to diligence as I have stated."

"Now, then, I invite your attention to the two decisions reported in the Federal Reporter by Judge Bledsoe, two opinions, one on a motion for injunction and one on final hearing. He discusses the facts most elaborately, and then, if you would be better satisfied with the Land Commissioner, his decision is full, and the Assistant Secretary sat with him and approved his findings."

It will be noted that the Obispo Co. was claiming under and through the McCutcheons, referred to by Mr. Justice, when he says:

"I invite your attention to the fact that the commissioner, who found the same as the judge, found that these locators—that these McCutcheons were fraudulent locators and claimants."

There were two decisions by the Interior Department on this question, first, July 28, 1914, and the second, April 21, 1915.

In the opinion of Commissioner Tallman, when sitting with the Assistant Secretary, as referred to by Mr. Justice, the following language is used:

"July 28, 1914, your office recommended that the charges be dismissed, that the said amended application for patent be accepted and filed, and that patent to the land be issued." (44 Land Decisions, 423.)

A little further on in the same opinion the following language is used:

"It must be and is therefore held that this case does not fall within the protection accorded by the proviso to the aforesaid act of June 25, 1910, as amended."

"The material facts with reference to the several so-called locations have been fully set forth, but a review thereof and the expression of any conclusion herefrom are deemed unnecessary, as the original and amended applications must be rejected for the reasons above stated." (44 Land Decisions, 437.)

Thus it is seen that the two decisions rendered by the Interior Department the first recommended that patent be issued and the second denied the application not on the ground of fraud but because the case did not fall within the protection accorded by the act of June 25, 1910, as amended, which related to the diligent prosecution of the work at the time of withdrawal.

A more glaring misstatement of fact by Mr. Justice appears from an examination of the decisions of the judges to which he refers. There have been three decisions by judges of Federal district courts—one by Judge Dooling and two by Judge Bledsoe. The decision by Judge Dooling and the first decision by Judge Bledsoe were preliminary hearings on the question of an application by Mr. Justice for receivership. The last decision by Judge Bledsoe was on the merits of the case.

In his preliminary opinion, rendered July 12, 1915 (234 Fed. Rep., 702), Judge Bledsoe used the following language:

"The facts involved in the McCutcheon case are very succinctly stated by Judge Dooling in his opinion filed at the time of the denial of the motion for a receivership, reported in Two hundred and seventeenth Federal Reporter, at page 650, and it is unnecessary therefore to reiterate them here or to refer to them save merely for purposes of explaining my ruling herein. It is apparent from Judge Dooling's decision that request was made of him for the appointment of a receiver upon two grounds: First, the alleged fraud on the part of the locators of the lands in question in the making of the location which was sought to be made the basis for the patent, and, second, because of the nondiscovery of oil upon the premises previous to the promulgation of the withdrawal order of 1909. Judge Dooling refused to grant the application upon either of the grounds urged."

It will be noted that the application refused by Judge Dooling was the application for the appointment of a receiver.

"With respect to the other question involved and considered by Judge Dooling, to wit, that of fraud, I am constrained to agree with him that at this time and in the advance of a trial upon the merits, that issue is not so free from doubt as to justify this court upon that ground in taking the property of the defendants out of their possession and giving it over into the hands of an officer of the court."

In his final decision on the merits of the case, Judge Bledsoe used the following language:

"A determination of the basic and controlling features of this case, then, depends upon an answer to the two questions: Was the Lone Star location valid and devoid of fraudulent intent? If so, did its beneficiaries actually, through the efforts of themselves or their agents, effect a 'discovery' of oil or gas thereon prior to September 27, 1909?"

"With respect to the first question I can come to no conclusion other than that it should receive an affirmative answer." (Manuscript decision, pp. 9 and 10.)

"It may be that there was the fraudulent intent that an individual, or what is more colorable, that the 'McCutcheon Bros.' should be the sole and real beneficiary of the Lone Star location, but there is no proof that this was the fact and no circumstances adduced from which the court could rationally and in the exercise of the reasonable discretion confided to it deduce the inference that such fraudulent intent in fact existed." (Manuscript decision, p. 10.)

"In substance, the parties directly interested, the McCutcheons, were at all times relying upon and proceeding from an entirely valid and bona fide transaction and muniment of title, to wit, the Lone Star location of 1900. Their rights, therefore, and the rights of those deriving title from them, will have to be measured under the assumption that at all times within the domain of this controversy they had made and were relying upon a bona fide location of the mining ground in dispute." (Manuscript decision, p. 12.)

Thus it is seen that in the decision of Judge Dooling on the preliminary hearing for the appointment of a receiver he point-blank decided that the McCutcheons were not guilty of fraud in the location, and that this decision was referred to and sustained by Judge Bledsoe in the preliminary hearing of the case before him for the appointment of a receiver, and, in the final decision of the case by Judge Bledsoe upon its merits, he held that the McCutcheons and those holding under them had to be considered upon "the assumption that at all times within the domain of this controversy they had made and were relying upon a bona fide location of the mining ground in dispute."

Respectfully,

WM. P. THORNE.

REPORTS OF COMMITTEES.

Mr. WADSWORTH, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 2743. An act for the relief of the widow of Joseph C. Akin (Rept. No. 1078); and

H. R. 16116. An act for the relief of Adelaide L. Gibbs, widow of Robert M. Gibbs (Rept. No. 1077).

Mr. BRYAN, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 3253. An act for the relief of Hudson Bros., of Norfolk, Va. (Rept. No. 1081);

H. R. 11661. An act for the relief of Catherine Burns, widow of Patrick Burns (Rept. No. 1080);

H. R. 14754. An act for the relief of Charles M. Way (Rept. No. 1079);

H. R. 15109. An act for the relief of Catherine A. Fox (Rept. No. 1098); and

H. R. 13754. An act for the relief of Charles A. Carey (Rept. No. 1099).

Mr. MYERS, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 7989. A bill for the relief of Horace P. Hulett (Rept. No. 1084); and

S. 7990. A bill for the relief of R. S. Van Tassell (Rept. No. 1083).

He also, from the same committee, to which was referred the bill (S. 8250) to establish the Grand Canyon National Park, in the State of Arizona, reported it with amendments and submitted a report (No. 1082) thereon.

Mr. LANE, from the Committee on Indian Affairs, to which was referred the bill (S. 6014) authorizing the Secretary of the Interior to withdraw from the Treasury a certain sum of the permanent fund of the Chippewas of Minnesota, now on deposit therein, to their credit, reported it with amendments and submitted a report (No. 1088) thereon.

Mr. JOHNSON of South Dakota, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 7841. A bill for the relief of the heirs of Harry Davenport, deceased (Rept. No. 1093); and

H. R. 10869. An act to authorize the payment of certain amounts for damages sustained by prairie fire on the Rosebud Indian Reservation in South Dakota (Rept. No. 1092).

Mr. WADSWORTH, from the Committee on Claims, to which was referred the bill (S. 5999) for the relief of Watson B. Dickerman, administrator of the estate of Charles Backman, deceased, reported it without amendment and submitted a report (No. 1094) thereon.

Mr. GRONNA, from the Committee on Claims, to which was referred the bill (S. 7602) for the relief of Mary C. Mayers, reported it without amendment and submitted a report (No. 1097) thereon.

Mr. JOHNSON of Maine, from the Committee on Claims, to which was referred the bill (S. 3529) to refund to John B. Keating customs tax erroneously and illegally collected, reported it without amendment and submitted a report (No. 1095) thereon.

He also, from the same committee, to which was referred the bill (S. 3777) for the relief of W. H. Presleigh, reported it with an amendment and submitted a report (No. 1096) thereon.

AMERICAN NATIONAL RED CROSS.

Mr. BRANDEGEE. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 14426) to amend section 6 of the act entitled "An act to incorporate the American National Red Cross," approved January 5, 1905. I ask unanimous consent for the present consideration of the bill. It is recommended by the Secretary of War. It simply changes the date of the fiscal year of the American National Red Cross Association so as to make it correspond with the fiscal year of the Government, that the reports of the association may be submitted to Congress with the other Government reports.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BRANDEGEE. I should like to have the report of the House committee printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[House of Representatives, Report No. 589, 64th Cong., 1st sess.]

AMERICAN NATIONAL RED CROSS.

April 24, 1916, committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WEBB, from the Committee on the Judiciary, submitted the following report, to accompany H. R. 14426:

The Committee on the Judiciary, having had under consideration the bill (H. R. 14426) to amend section 6 of the act entitled "An act to incorporate the American National Red Cross," approved January 5, 1905, report the same back to the House with the recommendation that the bill do pass.

Section 6 of the existing law reads as follows:

"SEC. 6. That the said American National Red Cross shall on the 1st day of January of each year make and transmit to the Secretary of War a report of its proceedings for the preceding year, including a full, complete, and itemized report of receipts and expenditures of whatever kind, which report shall be duly audited by the War Department, and a copy of said report shall be transmitted to Congress by the War Department."

The bill reported requires the report to be made on the 1st day of July of each year of its proceedings for the fiscal year ending June 30 next preceding.

The bill as reported was recommended by the Secretary of War in his communication to the House on January 25, 1916, in the following language:

WAR DEPARTMENT,
Washington, January 25, 1916.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to submit the draft of a bill to amend section 6 of the act to incorporate the American National Red Cross, approved January 5, 1905 (33 Stat., 599), so as to make the fiscal year of the Red Cross correspond to that of the Government instead of to the calendar year. The proposed amendment would allow the annual report of the proceedings, receipts, and expenditures of the Red Cross to be transmitted to Congress at the beginning of the session instead of later on in the session as under existing law. It is therefore recommended to the favorable consideration of Congress.

Very respectfully,

LINDLEY M. GARRISON,
Secretary of War.

The following letter from Hon. Arthur Murray, acting chairman of the American National Red Cross, dated April 10, 1916, fully sets forth the reasons for the proposed legislation:

THE AMERICAN RED CROSS,
Washington, D. C., April 10, 1916.

Hon. EDWIN Y. WEBB,
Chairman House Committee on Judiciary, Washington, D. C.

MY DEAR MR. WEBB: In accordance with your suggestion of to-day, I write to invite your attention to House Document No. 674 (copy inclosed), entitled "To amend section 6 of the act to incorporate the American National Red Cross."

As will be seen from an examination of the document referred to, it is simply a copy of a letter from the Secretary of War, transmitting, with a recommendation for the favorable consideration of Congress, a "draft of a bill to amend section 6 of the act to incorporate the American National Red Cross, approved January 5, 1905."

As to the object of the proposed amendment under section 6 of the act of January 5, 1905 (copy inclosed), the American National Red Cross is required to transmit to the Secretary of War on the 1st day of January of each year a report of its proceedings for the preceding (calendar) year, which report is required to be audited by the War Department and a copy transmitted to Congress. In actual practice for years past it has been found impossible to submit this required report to the Secretary of War until a month or so after the 1st day of January, and then as a month or more is required by the War Department to audit it, it results that instead of the report being submitted to Congress near the opening of a session, as apparently contemplated by the act, it usually reaches Congress about the end of a session. If section 6 is amended as proposed, it is believed that the required report can be audited by the War Department and a copy transmitted regularly to Congress at the opening instead of the end of a session.

So far as known, there is no objection of any kind to the proposed amendment. Its passage will undoubtedly be of benefit both to the American Red Cross and to the War Department, and it is believed that it would be desirable for Congress to have the required report submitted for its consideration at the beginning rather than as now, at the end of a session.

Hoping that this explanation of the needs of the proposed amendment will be sufficient to secure the passage of the bill relating to it, I am,

Yours, sincerely,

ARTHUR MURRAY,
Acting Chairman.

ST. FRANCIS RIVER BRIDGE.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably without amendment the bill (H. R. 18534) to authorize the construction, maintenance, and operation of a bridge across the St. Francis River at or near Parkin, Ark., and I submit a report (No. 1086) thereon. I ask for the immediate consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MISSISSIPPI RIVER BRIDGE.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably without amendment the bill (H. R. 18720) permitting the building of a railroad bridge across the Mississippi River at Bemidji, in the State of Minnesota, and I submit a report (No. 1087) thereon. I ask for the immediate consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROCK RIVER BRIDGE.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably with amendments the bill (S. 8227) granting the consent of Congress to the city of Fort Atkinson, in Jefferson County, Wis., for the construction of a bridge across the Rock River, and I submit a report (No. 1085) thereon. I ask for the immediate consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

The amendments were, on page 1, line 10, before the word "act," to strike out the word "an" and insert the word "the"; after the word "act" to strike out the words "of Congress"; and, on page 2, line 2, to strike out the word "sixteen" and insert the word "six," so as to make the bill read:

Be it enacted, etc., That the consent of Congress is hereby granted to the city of Fort Atkinson, in Jefferson County, in the State of Wisconsin, and to its successors and assigns, to construct, maintain, and operate a bridge, and approaches thereto, across the Rock River in said city at a point suitable to the interests of navigation and at a point where Main Street approaches said river in the County of Jefferson, State of Wisconsin, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HENRY E. DOSKER.

Mr. SMITH of South Carolina. From the Committee on Immigration I report back favorably without amendment the joint resolution (S. J. Res. 215) to grant citizenship to Henry E. Dosker, and I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Whereas Henry E. Dosker, of Louisville, Ky., has constantly been under the jurisdiction of the United States and a resident therein since the age of 18 years; and

Whereas the said Henry E. Dosker, when he became of age, went to the Federal court at Grand Rapids, Mich., and was informed by the clerk of said court that he had become a citizen of the United States by reason of the naturalization papers taken out by his father; and

Whereas the said Henry E. Dosker, since that time, for 41 years, has been exercising the privileges of American citizenship under the impression that no naturalization papers were required to be taken out by him; and

Whereas it now appears that the information given him by the clerk of the Federal court at Grand Rapids, Mich., was incorrect and that he is not a citizen of the United States nor of any other Government: Therefore be it

Resolved, etc., That Henry E. Dosker be, and he is hereby, unconditionally admitted to the character and privileges of a citizen of the United States.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

PENSIONS AND INCREASE OF PENSIONS.

Mr. JOHNSON of Maine. From the Committee on Pensions I report back favorably with amendments the bill (H. R. 20827) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors, and I submit a report (No. 1091) thereon.

The VICE PRESIDENT. Without objection, the bill is before the Senate as in Committee of the Whole, and the amendments of the committee will be stated.

The amendments were:

On page 2, to strike out lines 1, 2, 3, and 4, as follows:

The name of Charles A. Holmes, late of Company H, Ninth Regiment United States Infantry, Regular Establishment, and pay him a pension at the rate of \$12 per month.

On page 5, to strike out lines 1, 2, and 3, as follows:

The name of Charles A. Vanatta, late of Company M, First Regiment Colorado Volunteer Infantry, War with Spain, and pay him a pension at the rate of \$12 per month.

On page 6, line 4, after the name "John," strike out the initial "P." and insert the initial "F." so as to read:

The name of John F. Burrow, jr., late of United States Navy, War with Spain, and pay him a pension at the rate of \$8 per month.

On page 6, line 17, after the name "Daniel," to strike out the initial "F." and insert in lieu thereof the initial "T." so as to read:

The name of Daniel T. French, late of Fifteenth Battery, United States Field Artillery, War with Spain, and pay him a pension at the rate of \$12 per month.

On page 8, to strike out lines 20, 21, 22, and 23, as follows:

The name of Thomas Whitson, late captain Company L, Fourth Regiment Pennsylvania Volunteer Infantry, War with Spain, and pay him a pension at the rate of \$12 per month.

On page 8, in line 24, after the word "late," to strike out the words "a member," so as to read:

The name of George R. Weight, late of Company B, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of \$17 per month in lieu of that he is now receiving.

On page 11, to strike out lines 5, 6, and 7, as follows:

The name of Harry W. Feldman, late of the United States Navy, Regular Establishment, and pay him a pension at the rate of \$12 per month.

On page 11, in line 19, after the name "Smith," to insert the word "late," so as to read:

The name of Frank A. Smith, late of detachment of Engineers, United States Military Academy, United States Army, Regular Establishment, and pay him a pension at the rate of \$12 per month.

On page 12, to strike out lines 4, 5, and 6, as follows:

The name of Orin Marshall, late of Company A, First Regiment Kentucky Volunteer Infantry, War with Spain, and pay him a pension at the rate of \$12 per month.

On Page 13, in line 4, before the word "Marine," to insert the words "United States," so as to read:

The name of Marie G. Harding, widow of Arthur E. Harding, late captain, United States Marine Corps, United States Navy, Regular Establishment, and pay her a pension at the rate of \$20 per month.

On page 13, strike out lines 17, 18, and 19, as follows:

The name of Louis S. Harris, late of Battery A, Third Regiment United States Artillery, War with Spain, and pay him a pension at the rate of \$12 per month.

On page 13, to strike out lines 20, 21, and 22, as follows:

The name of Richard Thrash, late of Troop A, Second Regiment United States Cavalry, Regular Establishment, and pay him a pension at the rate of \$12 per month.

On page 15, to strike out lines 8, 9, 10, and 11, as follows:

The name of Fred Angelo, late of Troop C, Thirteenth Regiment United States Cavalry, Regular Establishment, and pay him a pension at the rate of \$12 per month in lieu of that he is now receiving.

On page 15, to strike out lines 19, 20, 21, and 22, as follows:

The name of Lily D. Murphy, widow of Frank T. Murphy, late of Battery K, Third Regiment United States Artillery, Regular Establishment, and pay her a pension at the rate of \$12 per month.

On page 15, to strike out lines 23, 24, and 25, as follows:

The name of Charles V. Grogan, late of the United States Navy, War with Spain, and pay him a pension at the rate of \$12 per month.

On page 16, to strike out lines 1, 2, 3, 4, and 5, as follows:

The name of Robert J. Clement, dependent father of Ira C. Clement, late of Company G, First Regiment United States Infantry, Regular Establishment, and pay him a pension at the rate of \$20 per month in lieu of that he is now receiving.

On page 17, to strike out lines 8, 9, 10, and 11, as follows:

The name of George W. Paul, late of Company D, Second Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of \$17 per month.

On page 17, to strike out lines 12, 13, and 14, as follows:

The name of Frank L. Schaarman, alias Frank L. Sherman, late of the United States Navy, Regular Establishment, and pay him a pension at the rate of \$24 per month.

On page 17, to strike out lines 15, 16, 17, 18, and 19, as follows:

The name of George Parliament, late of Company C, Second Regiment Louisiana Volunteer Infantry, and Company G, Thirty-ninth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of \$12 per month.

On page 18, to strike out lines 14, 15, and 16, as follows:

The name of Otto H. Staron, late of the United States Navy, Regular Establishment, and pay him a pension at the rate of \$12 per month.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. JOHNSON of Maine. I move that the Senate insist upon its amendments and request a conference with the House on the bill and amendments, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. JOHNSON of Maine, Mr. HUGHES, and Mr. SMOOR conferees on the part of the Senate.

Mr. JOHNSON of Maine. From the Committee on Pensions I submit a report (No. 1089) accompanied by a bill (S. 8295)

granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill.

It proposes to place on the pension rolls the following-named persons at the rate herein specified:

Eliza J. Sparrow	\$20
Lizzie B. Wellman	20
Sarah J. Wheatley	20
Harriet C. Squire	20
Ellen C. Messenger	20
Lillian A. Loomis	20
Helena E. Clark	20
Flora L. Cummings	20
Rowena M. Calkins	20
Julia E. Booth	20
Mary A. Birge	20
Alice P. B. Kenyon	20
Mary A. Hughes	20
Ruth A. Ingraham	20
Mary B. Johnson	20
Benjamin F. Clark	50
Kate M. King	20
Jacob S. Fritz	30
Samuel P. Shaffer	36
Millie M. Ball	20
Uriah Ruch	30
Abraham T. Casey	36
Alfred Quackenbush	30
Cerelle Shattuck	30
Jennie M. Chapman	20
James K. Clear	40
Ella M. Dailey	20
Charles Cain	40
Isaac J. C. Guy	30
Arthur Ward	40
George Hinds	30
Annie Humphreys	20
Dyer B. McConnell	40
James E. Sipes	36
Mary E. Button	20
Ada Roberts	20
Adelaide P. Thomas	20
Elden B. Maddocks	30
Henry C. Sargent	30
William D. Collins	30
Eugene H. Otis	36
Daniel Killigan	50
George W. Smith	30
Albania D. Thornburgh	30
George H. Wilkins	40
George H. Fernald	30
Marian Robinson	20
William A. Millard	24
Marcellus Hoben	36
James H. Hines	50
Timothy Stone	36
John W. Hall	30
Asa T. Worcester	40
Hiram Haynes	30
Frederick Nientzenhelzer	30
Thomas J. Leathers	50
John G. McKay	40
Henry E. Flanders	30
John J. Ashline	30
Edward T. Jackson	36
Alfred T. Rand	24
David Russel	50
Hiram H. Titterington	30
Benjamin F. Byers	40
Thomas R. Luckhardt	40
Joseph Grubb	36
Daniel McNutt	50
Mary E. Campbell	20
Jabez R. Bowen	40
Grace M. Copeland	12
Margaret Downey	20
Horace Griggs	30
Sarah M. Law	20
Ellen Manchester	20
Mary E. Newbury	20
Timothy Quinn	36
Frank S. Shaffer	36
Edward D. Woodmansee	36
Charles A. Mudgett	36
Lillian S. Hawkes	20
Joseph McKenney, jr.	40
Carlton J. Beaman	30
John S. Raymond	30
Theodore B. Magle	30
James H. Waugh	30
Frank Goodwin	30
William H. Clark	40
Thomas D. Scott	50
Addie M. Higgins	20
Ezra F. McIntire	40
Walter M. Edes	12
Marcellus E. Hart	30
James M. Gwinn	30
Waddy Hoover	36
John F. Anderson	50
Dorr H. Mayne	50
William H. Lasher	36
Roscoe G. Tibbetts	40
Simon Hasselback	36
Catherine Crane Patrick	20
Isalah W. Deemer	56
Charles Richards	36

Edward E. Gould	\$50
George H. Clark	30
Joseph Artley	24
Jacob M. Westfall	30
May E. McCoy	20
Lucretia Whitl	20
Mary E. A. Winans	20
Oliver W. Davis	30
David E. Dodge	30
Timothy S. Heald	40
Charles Fisk	30
Thomas A. Stevens	40
Stephen B. Packard	40
Michael Shelint	40
Leroy S. Griswold	40
Robert H. M. Donnelly	40
Michael Callahan	30
Henry S. Shisby	40
Dennis W. Riordan	36
John H. Wells	50
Lewis Seymour	38
Robert Johnston	38
Samuel E. Palmer	36
Sarah Baker	20
Mollie Thompson	20
Anna Alexander	20
Robert S. Bowman	38
George W. Moore	50
John S. Adams	36
Caleb Akers	50
Harrison White	50
Ella Taylor	24
Francis A. Ricketts	50
Henry Smith	50
Francis M. Blankinship	36
Jeremiah Coombs	36
John W. Robertson	40
Minatree Turner	50
George S. Robinson	40
William M. Helvy	40
Augusta Lambert	12
Elizabeth Roberts	20
Francis E. Derby	40

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JOHNSON of Maine. From the Committee on Pensions I submit a report (No. 1090), accompanied by a bill (S. 8296) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to place on the pension rolls the following-named persons at the rate herein specified:

Louis Hagenbucher	\$30
Percy A. Farrar	17
Edward Robinson	17
Mattie S. M. Hope	12
M. E. Sasser	17
Hans C. Neilsen	12
Carl J. Nelson	12
Robert L. Zell	17
Clark E. Messenger	6
Edward Harris	20
John H. Elder	17
Elmer Bjarnson	17
Meda Mathey	40
Leonard Kempenar	20
Byron W. Jacks	40
Abel H. Hall	17
Harry F. Roddy	20
William A. Bowens	17
Della B. Lydecker	50
Ethel M. Rohards	20
Arabelle G. Walker	50
Lotta K. Boyd	24
William E. Puett	12
George P. Cross	20
George Moir	17
Herbert G. Hoots	17
Alada Thurston Paddock Mills	50
Ferdinand Klawitter	30
Frank Burrow	12
John A. West	30
Joseph J. Meyers	20
Kathrina E. T. Vreeland	50
Robert A. Imrie	17
William F. Core	17
Ernest Wesche, Jr.	12
Mary L. Pritchett	17
Elizabeth S. Naylor	17
Aurelia H. Gibson	40
Emily A. Baldrige Cavender	20
Johanna E. Waalkes	12

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WADSWORTH:

A bill (S. 8281) to carry out the findings of the Court of Claims in the case of Arthur E. Colgate, administrator of the

estate of Clinton G. Colgate, deceased; to the Committee on Claims.

By Mr. SMOOT:

A bill (S. 8282) to change the name of the Mukuntuweap National Monument in the State of Utah to Little Zion National Park; to the Committee on Public Lands.

By Mr. THOMAS:

A bill (S. 8283) for the relief of Samuel W. Morrison; to the Committee on Claims.

By Mr. CURTIS:

A bill (S. 8284) granting a pension to Mary C. Thompson (with accompanying papers);

A bill (S. 8285) granting an increase of pension to James K. P. Wilson (with accompanying papers); and

A bill (S. 8286) granting an increase of pension to William B. Gray (with accompanying papers); to the Committee on Pensions.

By Mr. HUSTING:

A bill (S. 8287) to establish aids to navigation at Fond du Lac Harbor, Wis.; to the Committee on Commerce.

A bill (S. 8288) granting an increase of pension to Emily E. Fowler; and

A bill (S. 8289) granting an increase of pension to Ferdinand Fetter; to the Committee on Pensions.

By Mr. WATSON:

A bill (S. 8290) granting an increase of pension to Maberry M. Lacey; and

A bill (S. 8291) granting an increase of pension to John A. Markley; to the Committee on Pensions.

By Mr. UNDERWOOD:

A bill (S. 8292) to authorize sale of certain land in Alabama to the heirs at law of Thomas Tumlin, deceased; to the Committee on Public Lands.

By Mr. MARTINE of New Jersey (for Mr. CHILTON):

A bill (S. 8293) granting an increase of pension to Mary Ella Walton; to the Committee on Pensions.

By Mr. WADSWORTH:

A bill (S. 8294) for the retirement of employees in the classified civil service; to the Committee on Civil Service and Retrenchment.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CURTIS submitted an amendment proposing to appropriate \$20,000 for the repair, rebuilding, and completion of the road on the Fort Riley Military Reservation in the State of Kansas, intended to be proposed by him to the sundry civil appropriation bill (H. R. 20967), which was referred to the Committee on Appropriations and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate \$125,000 for eight or more launches for the Coast and Geodetic Survey, including their equipment, intended to be proposed by him to the sundry civil appropriation bill (H. R. 20967), which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate \$708,000 for two new vessels for the Coast and Geodetic Survey, including their equipment, etc., intended to be proposed by him to the sundry civil appropriation bill (H. R. 20967), which was referred to the Committee on Appropriations and ordered to be printed.

THE REVENUE.

Mr. NORRIS submitted an amendment intended to be proposed by him to the bill (H. R. 20573) to provide revenue to defray the expenses of the increased appropriations for the Army and Navy and the extension of fortifications, and for other purposes, which was ordered to lie on the table and be printed.

MARGARET N. BAUSKETT.

Mr. BRYAN submitted the following resolution (S. Res. 369), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate to Margaret N. Bauskett, widow of William T. Bauskett, late clerk to the Committee on Claims of the United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

REPORT ON MILK STANDARDS.

Mr. WADSWORTH submitted the following resolution (S. Res. 368), which was referred to the Committee on Printing:

Resolved, That the third report of the Commission on Milk Standards, appointed by the New York milk committee, as printed in volume 32, No. 7, of the Public Health Reports, dated February 16, 1917, be printed as a Senate document, and that 100,000 additional copies be printed for the use of the Senate document room.

INDIAN APPROPRIATIONS.

Mr. CLAPP. For the senior Senator from Arizona [Mr. ASHURST] I submit a conference report on the Indian appropriation bill, which I ask may lie on the table and be printed in the RECORD.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 18453) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1918, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 4, 6, 7, 8, 13, 14, 20, 21, 26, 27, 28, 29, 30, 31, 33, 34, 36, 38, 39, 55, 58, 62, 65, 66, 73, 74, 76, 82, 88, 96, 100, 103, 106, and 112.

That the House recede from its disagreement to the amendments of the Senate numbered 15, 17, 18, 23, 25, 37, 40, 41, 43, 44, 45, 47, 52, 53, 54, 56, 57, 59, 61, 64, 67, 68, 69, 70, 71, 72, 75, 77, 78, 79, 81, 83, 86, 89, 91, 94, 97, 98, 99, 101, 102, 104, 105, 107, 108, and 109, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "Provided further, That \$5,000 of the above amount shall be used for an investigation and report on the merits of the claim of the Indians of the Warm Springs Reservation in Oregon to additional land arising from alleged erroneous surveys of the north and west boundaries of their reservation as defined in the treaty concluded June 25, 1855 (12 Stat. L., 963), and the Secretary of the Interior is hereby authorized to make such survey or resurveys as may be necessary to complete said investigation and report"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "Provided, That automobiles or any other vehicles or conveyances used in introducing, or attempting to introduce, intoxicants into the Indian country, or where the introduction is prohibited by treaty or Federal statute, whether used by the owner thereof or other person, shall be subject to the seizure, libel, and forfeiture provided in section 2140 of the Revised Statutes of the United States"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$1,600,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"For construction, lease, purchase, repair, and improvement of school and agency buildings, including the purchase of necessary lands and the installation, repair, and improvement of heating, lighting, power, and sewerage and water systems in connection therewith, \$400,000: *Provided*, That of this amount \$300 may be expended for the purchase of a perpetual water right and right of way across the lands of private individuals, for the purpose of running a pipe line from a certain spring or springs located near the Sisseton Indian Agency buildings, South Dakota, to said buildings, the purchase of such water right to include sufficient land for the construction of a small cement reservoir near such spring or springs for the purpose of storing the water so acquired: *Provided further*, That not to exceed \$500 of the amount herein appropriated may be used for the acquisition on behalf of the United States, by purchase or otherwise, of land for a site for the Mesquakie Day School, Sac and Fox, Iowa: *Provided further*, That the Secretary of the Interior is authorized to allow employees in the Indian Service who are furnished quarters necessary heat and light for such quarters without charge, such heat and light to be paid for out of the fund chargeable with the cost of heating and lighting other buildings at the same place: *And provided further*, That the amount so expended for agency purposes shall not be included in the maximum amounts for compensation of employees prescribed by section 1, act of August 24, 1912."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "Provided further, That where practicable the

transportation and expenses so paid shall be refunded and shall be returned to the appropriation from which paid"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "\$475,000, of which sum not less than \$75,000 shall be used for the employment of additional field matrons"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In line 1 of said amendment strike out the figures "\$10,000" and insert in lieu thereof "\$8,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$400,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the sum proposed in line 1 of said amendment insert "\$75,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: Strike out all of said amendment numbered 24 and the following language appearing in lines 10 to 14, inclusive, on page 13 of the bill:

"That from and after the passage of this act the Secretary of the Interior shall have the power to authorize any superintendent, clerk, or other employee in the Indian field service to administer oaths and take acknowledgments in connection with matters pertaining to their official duties."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: In line 4 of the amendment proposed, after the word "Interior," strike out the period, insert a comma, and add the following: "reimbursable to the United States from any funds now or hereafter placed in the Treasury to the credit of the Navajo Indians in Arizona, to remain a charge and lien upon the lands and funds of said tribe of Indians until paid"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$20,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"IOWA.

"SEC. 6. The Secretary of the Interior is hereby authorized, in his discretion, to pay to the enrolled members of the Sac and Fox of the Mississippi Tribe of Indians of the State of Iowa, entitled under existing law to share in the funds of said tribe, or to their lawful heirs, the sum of \$10,334.96, together with the interest which has or may hereafter accrue thereon, remaining in the Treasury of the United States to the credit of the Sac and Fox of the Mississippi Tribe of Indians of the State of Iowa, from the sum of \$42,893.25 transferred to the credit of those Indians under the provisions of the act of June 10, 1896, said sum of \$10,334.96 to be apportioned per capita among the enrolled members of said tribe."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: In line 6 of the amendment strike out the following: "for setting out trees, \$500;" and in line 7 of the amendment strike out the figures "\$75,175" and in lieu thereof insert the figures "\$74,675"; and the Senate agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 48 and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment as follows: In line 4 of the amendment strike out word "on," after the word "bridge," and insert the following: "across the Mississippi River on the"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In line 5 of the amendment, after the word "been," strike out the words "omitted erroneously from the rolls," and in lieu thereof insert the following: "heretofore er-

roneously stricken from the rolls and reinstated prior to the passage of this act"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment as follows: After the word "Washington," in lines 21 and 22 of the amendment, insert the following: "and other Chippewa Indians visiting said city"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In lines 3 and 4 of the amendment strike out the following: "for the purchase of additional land, \$41,600; in all, \$129,920," and insert the following: "in all, \$88,320"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment as follows: In line 1 of the amendment strike out the figures "\$52,100" and in lieu thereof insert the figures "\$50,430"; and in line 4 of the amendment strike out the figures "\$99,100" and in lieu thereof insert "\$97,430"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment as follows: In lieu of the matter stricken out by said amendment insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized to pay to the enrolled members of the Choctaw and Chickasaw Tribes of Indians of Oklahoma entitled under existing law to share in the funds of said tribes, or to their lawful heirs, out of any moneys belonging to said tribes in the United States Treasury or deposited in any bank or held by any official under the jurisdiction of the Secretary of the Interior, not to exceed \$100 per capita, said payment to be made under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That in cases where such enrolled members, or their heirs, are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indians: *Provided further*, That the money paid to the enrolled members as provided herein shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this act: *Provided further*, That the Secretary of the Interior is hereby authorized to use not to exceed \$8,000 out of the Chickasaw and Choctaw tribal funds for the expenses and the compensation of all necessary employees for the distribution of the said per capita payments."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the sum of \$5,000, to be immediately available, be, and the same is hereby appropriated, out of any funds of the Chickasaw Nation, not otherwise appropriated, to reimburse Douglas H. Johnston, Governor of the Chickasaw Nation, for extra expenses incurred in the performance of his duty as chief executive of the Chickasaw Nation and principal chief of the Chickasaw Tribe of Indians during the period covered between the years 1907 and 1912, and the Secretary of the Interior is hereby authorized and directed to make such payment from the funds of said nation."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"Hereafter no allotments of land shall be made to members of the Creek Nation: *Provided*, That upon the approval of this act the Secretary of the Interior shall, in lieu of an allotment, pay out of any funds in the Treasury of the United States, to the credit of the Creek Nation, the sum of \$800 each, to Lula Butler, Quenton Garrett, Jack Elton Wilson, and David Bowlegs who have not received an allotment or money in lieu of an allotment: *Provided further*, That if it shall be found that any of said parties have received a partial allotment the Secretary of the Interior shall pay to such party or parties a sum sufficient to equalize such partial allotment up to the sum of \$800."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In line 7 of the amendment strike out the following: "\$40,000; in all, \$162,200," and insert "\$30,000; in all \$152,200"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: In line 12 of the amendment, after the word "prescribe," strike out the period, insert a colon, and add the following: "*Provided*, That the application of this provision shall not interfere with any rights guaranteed by treaty to any allotted Umatilla Indian or Indians"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following:

"Sec. 21. For support and education of 365 Indian pupils at the Indian school at Flandreau, S. Dak., and for pay of superintendent, \$62,955; for general repairs and improvements, \$8,000; for new barn, \$3,000; in all, \$73,955."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "in all, \$53,750."

On page 40, line 1, of the bill, after the figures "\$43,750," insert the following: "of which amount not exceeding \$900 may be expended for the purchase of two new busses"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"For acquiring, constructing, or enlargement and equipment of school buildings on the following reservations: Crow Creek, Pine Ridge, Rosebud, Standing Rock, Yankton, Sisseton, Lower Brule, and Cheyenne River, \$300,000, of which sum not to exceed \$50,000 shall be used for the construction and equipment of new school buildings at Fort Yates, N. Dak. And it is hereby declared to be the settled policy of the Government to hereafter make no appropriation whatever out of the Treasury of the United States for education of Indian children in any sectarian school."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"Sec. 26. That until the meeting of the Sixty-fifth Congress, those members of the Committee on Indian Affairs of the House of Representatives, not less than five in number, who are Members elect to the Sixty-fifth Congress, are authorized to conduct hearings and investigate the conduct of the Indian Service, at Washington, District of Columbia, and elsewhere, and the sum of \$15,000, or so much thereof as may be necessary, to be immediately available and remain available until expended, is hereby appropriated for expenses incident thereto. The said committee is hereby authorized and empowered to examine into the conduct and management of the Bureau of Indian Affairs and all its branches and agencies, their organization and administration, to examine all books, documents, and papers in the said Bureau of Indian Affairs, its branches or agencies, relating to the administration of the business of said bureau, and shall have and is hereby granted authority to subpoena witnesses, compel their attendance, administer oaths, and to demand any and all books, documents, and papers of whatever nature relating to the affairs of Indians as conducted by said bureau, its branches and agencies. Said committee is hereby authorized to employ such clerical and other assistance, including stenographers, as said committee may deem necessary in the proper prosecution of its work: *Provided*, That stenographers so employed shall not receive for their services exceeding \$1 per printed page."

And the Senate agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 111, and agree to the same.

HENRY F. ASHUEST,

H. L. MYERS,

MOSES E. CLAPP,

Managers on the part of the Senate.

JNO. H. STEPHENS,

C. D. CARTER,

P. D. NORTON,

Managers on the part of the House.

MOUNT M'KINLEY NATIONAL PARK.

The PRESIDING OFFICER (Mr. SHEPPARD in the chair) laid before the Senate the amendments of the House of Representa-

fives to the bill (S. 5716) to establish the Mount McKinley National Park, in the Territory of Alaska, which were, on page 2, to strike out lines 23 to 25, inclusive, and insert:

SEC. 4. Nothing in this act shall in any way modify or affect the mineral-land laws now applicable to the lands in the said park.

On page 4, line 8, after "park," to strike out all down to and including "park" in line 12, and insert:

Provided, That no appropriation for the maintenance of said park in excess of \$10,000 annually shall be made unless the same shall have first been expressly authorized by law.

Mr. PITTMAN. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

COURTS IN TEXAS.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 7644) to create a new division of the northern judicial district of Texas, and to provide for terms of court at Wichita Falls, Tex., and for a clerk for said court, and for other purposes, which was, on page 2, line 3, after "court," to insert:

Provided, That suitable accommodations for holding court at Wichita Falls shall be provided by the county or municipal authorities without expense to the United States.

Mr. CULBERSON. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

DISTRICT JUDGE FOR TEXAS.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 5450) to amend section 108, chapter 5, of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, which were, to strike out all after the enacting clause and insert:

That the President of the United States, by and with the advice and consent of the Senate, shall appoint an additional judge of the District Court of the United States for the Western District of Texas, who shall possess the same powers, perform the same duties, and receive the same compensation and allowance as the present judge of said district, and whose official place of residence shall be maintained at El Paso until otherwise provided by law.

And to amend the title so as to read: "An act to provide for an additional judge in the State of Texas."

Mr. CULBERSON. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

UNSURVEYED RAILROAD LANDS.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1792) for the relief of settlers on unsurveyed railroad lands, which was, on page 2, line 6, after "lands," to insert "of approximately equal value."

Mr. POINDEXTER. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

COAL-LAND ENTRIES.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 40) to authorize agricultural entries on surplus coal lands in Indian reservations, which was, on page 4, line 7, after "reservation," to insert:

Provided, That the provisions of this act shall not apply to the lands of the Five Civilized Tribes of Indians in Oklahoma.

Mr. SMOOT. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

FORT PECK INDIAN RESERVATION.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 5612) providing additional time for the payment of purchase money under homestead entries of lands within the former Fort Peck Indian Reservation, Mont., which were, on page 1, line 8, to strike out "and so forth" and insert "and the sale and disposal of all the surplus lands after allotment"; on page 1, line 9, after "pay," to insert "one-half of any"; on page 2, line 4, to strike out "at or" and insert "annually"; on page 2, to strike out lines 11 to 16, inclusive; and on page 2, line 17, to strike out "Sec. 3." and insert "Sec. 2."

Mr. MYERS. I move that the Senate concur in the amendments of the House.

Mr. JONES. Mr. President, I should like to know what this bill is.

Mr. MYERS. It is Senate bill 5612, introduced by me. It proposes to grant a slight extension of time for homesteaders

on the Fort Peck Indian Reservation in Montana to make their payments.

Mr. JONES. What is the character of the amendments made by the House?

Mr. MYERS. The principal amendment adopted by the House, and the only one that amounts to anything, is to make the extension on one-half of the payments instead of on all of them, as passed by the Senate, and I am willing to accept that amendment.

Mr. JONES. How much time does the bill give?

Mr. MYERS. As the Senate passed the bill it provided that the time might be extended from five to eight years. That is not disturbed by the House action. The provisions of the bill are confined to the Fort Peck Indian Reservation, solely in the State of Montana. It is a local bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Montana to concur in the House amendments.

The motion was agreed to.

REPUBLIC COAL CO.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the joint resolution (S. J. Res. 50) authorizing the Secretary of the Interior to sell the coal deposits in and under certain public lands to the Republic Coal Co., a corporation.

Mr. MYERS. I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. MYERS, Mr. THOMAS, and Mr. SMOOT conferees on the part of the Senate.

Mr. KENYON. Mr. President, I desire to make an inquiry of the Senator from Montana regarding this joint resolution. Is it the same measure granting certain lands to the Republic Coal Co. that was pending in the Senate a couple of years ago and in regard to which there was some controversy here?

Mr. MYERS. I think this is the joint resolution the Senator has in mind.

Mr. KENYON. When did it pass the Senate?

Mr. MYERS. A month ago, probably.

Mr. SMOOT. It was passed one evening, I will say to the Senator.

Mr. MYERS. When the calendar was called.

The PRESIDING OFFICER. The joint resolution was passed on June 3, 1916, the Chair will say to the Senator from Iowa.

Mr. KENYON. It was passed during a call of the calendar, I presume, for unobjected bills.

Mr. MYERS. It was passed much farther back than I thought, but it passed, as I recall, on a call of the calendar during the daytime. I do not think it was passed at night.

Mr. SMOOT. My recollection is it was passed in the evening.

Mr. KENYON. I should like to ask the Senator if this joint resolution as it is now constructed is different from what it was when the objection was made to it when originally considered in the Senate?

Mr. MYERS. There were so many objections raised and it has been pending so long, in both the Sixty-third and Sixty-fourth Congresses, that I can not answer that question intelligently.

Mr. KENYON. A number of amendments have been made to the joint resolution?

Mr. MYERS. It was amended in the Senate, and then still further amended in the other House.

Mr. JONES. Mr. President, I want to ask the Senator a question. Of course the amendments of the House were read hurriedly, but, as I understand, the House has practically changed the entire resolution. Is not that true?

Mr. MYERS. I would not say that, but the House has changed the joint resolution in a number of material respects.

Mr. JONES. As I understand, the Senate joint resolution provided for the sale of some of the public lands, or the coal under the public lands to this company, and the House has changed that to a leasing system.

Mr. MYERS. That is one of the changes the House has made.

Mr. JONES. That is the important change, is it not?

Mr. MYERS. That is probably the most important change; yes, sir.

Mr. JONES. And if the amendments made by the House shall be concurred in, then it will form a precedent for handling the public domain hereafter?

Mr. MYERS. I presume it would, but the amendments have not been adopted as yet.

Mr. JONES. I hope the Senate conferees will see that they are not adopted.

Mr. MYERS. I have done all that I could do. I moved that the Senate disagree to the amendments of the House, request a conference with the House, and that the Chair appoint the conferees on the part of the Senate. That motion was agreed to, and the conferees have been appointed.

Mr. JONES. I know that; but I desired to make to the conferees the suggestion I have made.

Mr. MYERS. So far as I am concerned, I have always favored the sale of the lands, and I am not in favor of the leasing provision.

Mr. KENYON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENYON. Would a motion at this time to concur in the House amendments be in order?

The PRESIDING OFFICER. It would.

Mr. MYERS. I raise the point of order that it would not be in order unless the Senate should reconsider the action that has already been taken. The Senate has taken positive action in the matter.

Mr. KENYON. I move, Mr. President, that the Senate concur in the House amendments.

Mr. MYERS. I raise the point of order that the motion is out of order.

The PRESIDING OFFICER. The Chair will state to the Senator from Iowa that he overlooked the fact for the moment that a motion to disagree to the amendments of the House had been made and carried, and that conferees had been appointed. Therefore a motion to reconsider will have to be made before the motion of the Senator from Iowa can be entertained.

Mr. KENYON. It was done in a hurry—I am not criticizing anyone—but it was done as such matters usually are done, without full knowledge on the part of the Senate, I think, as to what was taking place. I move to reconsider the vote by which the Senate disagreed to the amendments of the House of Representatives and appointed conferees.

Mr. MYERS. I should like to say to the Senator from Iowa that I—

Mr. SIMMONS. Mr. President, it is perfectly apparent, from the statements made to me by Senators, that this measure can not be acted upon without long discussion, and I object.

Mr. MYERS. I do not want any action on it except what has already been taken. I am not asking for any.

Mr. KENYON. As the parliamentary situation now stands, the matter, as I understand, goes over with my motion pending to concur in the House amendments.

The PRESIDING OFFICER. The Chair holds that the motion to reconsider is in order.

Mr. SMITH of South Carolina. If the Senator from Iowa will allow me—

Mr. SIMMONS. Mr. President, a parliamentary inquiry. Is that motion debatable?

The PRESIDING OFFICER. The motion is debatable.

Mr. SMITH of South Carolina. I just wanted to address this observation to the Senator from Iowa: This matter has gone to conference, as I understand. I know nothing about the merits of it. Of course, those who live in that section of the country are more familiar with its merits; but the Senator from Iowa will have his opportunity when the conference report is made in the Senate.

Mr. KENYON. I think not.

Mr. SMITH of South Carolina. Oh, certainly the Senator will.

Mr. KENYON. My motion is that the House amendments be concurred in.

Mr. SMITH of South Carolina. If the conferees bring in a report they will recommend an agreement. Then the Senator from Iowa will have an opportunity to inquire as to the nature of the agreement, and he can object to the conference report and defeat it if he has votes enough.

Mr. NORRIS. Mr. President, I want to submit to the Senator from Iowa that if he is anxious to have the Senate concur in the House amendments he ought to insist on his motion to reconsider the vote by which this bill was acted on and conferees were appointed, because if the conferees are appointed and the vote is not reconsidered and they make a report here, no matter what it may be, it will be the conference report that will be before the Senate, and it will not be in order at that time for him to make his motion to concur in the House amendments. If, however, a motion to reconsider is made and agreed to, then a motion to concur in the House amendments is in order, and if that motion prevails the bill is passed.

Mr. MYERS. Mr. President, I want to appeal to the Senator from Iowa to let this matter take its usual course. I can see no objection to it. Conferees have been appointed now. They will meet the conferees from the House. There are a number of material amendments in the bill—a number of amendments that are material to the nature of the bill. The conferees from the House will meet the conferees from the Senate. I think possibly in conference there may be some compromise arrived at that will be fairly satisfactory to both House and Senate. If so, then a report will be made to each body, and the Senator from Iowa will have his opportunity to hear the report of the conferees, and if it is not satisfactory to him in any particular he may oppose it and make his fight on it. Why not let the conferees see if they can get anything out of it that is satisfactory, and then, if not satisfactory, make his fight and let the matter take the usual course?

Mr. KENYON. Mr. President, I think I will follow the suggestion of the Senator from Montana. As this bill was originally presented to the Senate, I was opposed to it, and it seems to me that it was passed without any particular consideration; but the objections I have may have been fully covered by amendments. I am inclined to think the House amendments—

Mr. MYERS. If the Senator will pardon me, I will say that there have been a number of amendments made. If the Senator will pursue the course he kindly indicates he will, he will have ample time to study it. He can study the bill and the amendments and the conference report, and see if he is satisfied in every respect.

Mr. KENYON. I will follow the suggestion of the Senator from Montana.

The PRESIDING OFFICER. The motion to concur in the amendments of the House is withdrawn.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 5788. An act to create two additional associate justices of the Supreme Court of the District of Columbia;

H. R. 10110. An act to increase the salary of the United States district attorney for the district of Rhode Island;

H. R. 11706. An act to amend an act entitled "An act to prevent the disclosure of national-defense secrets," approved March 3, 1911;

H. R. 19233. An act to increase the salary of the United States marshal for the western district of Michigan; and

H. R. 20414. An act for the establishment of a probation system in the United States courts except in the District of Columbia.

The following bill and joint resolution were each read twice by their titles and referred to the Committee on Foreign Relations:

H. R. 20755. An act to provide a temporary government for the West Indian Islands acquired by the United States from Denmark by the convention entered into between said countries on the 4th day of August, 1916, and ratified by the Senate of the United States on the 7th day of September, 1916, and for other purposes; and

H. J. Res. 334. Joint resolution authorizing the President to appoint delegates to attend the Tenth International Congress of the World's Purity Federation, to be held in the city of Louisville, State of Kentucky, November 8 to 14, 1917.

The following bills were each read twice by their titles and referred to the Committee on Patents:

H. R. 19771. An act to renew patent No. 24917; and

H. R. 20228. An act to renew patent No. 25909.

H. R. 18894. An act to amend the public-building act approved March 4, 1913, authorizing the acquisition of a suitable site for a public building at Pittston, Pa., was read twice by its title and referred to the Committee on Public Buildings and Grounds.

H. R. 17646. An act to amend section 6 of an act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes, approved March 14, 1900, as amended by the act of March 4, 1907, by the act of March 2, 1911, and by the act of June 12, 1916, was read twice by its title and referred to the Committee on Banking and Currency.

H. R. 13166. An act authorizing the Commissioner of Indian Affairs to transfer fractional block 6, of Naylor's addition, Forest Grove, Oreg., to the United States of America, for the use of the Bureau of Entomology, Department of Agriculture, was read twice by its title and referred to the Committee on Indian Affairs.

H. R. 18825. An act to amend an act entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year 1915 and for prior years, and for other purposes," was

read twice by its title and referred to the Committee on Appropriations.

H. R. 18826. An act to relieve the owners of mining claims who have been mustered into the service of the United States as officers or enlisted men of the Organized Militia or National Guard from performing assessment work during the term of such service, was read twice by its title and referred to the Committee on Mines and Mining.

OFFENSES AGAINST THE GOVERNMENT.

The VICE PRESIDENT. Is there further morning business? If not, the morning business is closed.

Mr. OVERMAN. I move that the Senate proceed to the consideration of Senate bill 8148.

The motion was agreed to, and the Senate resumed the consideration of the bill (S. 8148) to define and punish espionage.

The VICE PRESIDENT. The Chair understands that the question is on the passage of the bill, and the yeas and nays have been ordered. The Secretary will call the roll.

Mr. NORRIS. The question is debatable, is it not?

The VICE PRESIDENT. It is not. The roll was once called.

Mr. NORRIS. There was no quorum, I understand.

The VICE PRESIDENT. That is true, but the roll call has been begun, and it is not debatable.

The Secretary proceeded to call the roll.

Mr. SIMMONS (when his name was called). I transfer my pair with the junior Senator from Minnesota [Mr. CLAPP] to the Senator from Oklahoma [Mr. GORE] and vote "yea."

Mr. UNDERWOOD (when his name was called). I have a general pair with the junior Senator from Ohio [Mr. HARDING], who is detained at home on account of sickness. He has, however, informed me, through his secretary, that, if he were present, he would vote for the bill, and asked me to announce that fact. As, if he were present, the Senator from Ohio would vote in the same way that I shall vote, I will vote. I vote "yea."

Mr. VARDAMAN (when the name of Mr. SHIELDS was called). I wish to announce the absence of the Senator from Tennessee [Mr. SHIELDS] on account of illness.

Mr. WALSH (when Mr. SAULSBURY's name was called). The Senator from Delaware [Mr. SAULSBURY] is absent on account of illness. The Senator from West Virginia [Mr. CHILTON] is also absent on account of illness in his family.

The roll call was concluded.

Mr. BECKHAM. I transfer my pair with the senior Senator from Delaware [Mr. DU PONT] to the Senator from Illinois [Mr. LEWIS] and vote "yea."

Mr. CHAMBERLAIN. I transfer my general pair with the junior Senator from Pennsylvania [Mr. OLIVER] to the senior Senator from Alabama [Mr. BANKHEAD] and vote "yea."

Mr. COLT (after having voted in the affirmative). I have a general pair with the junior Senator from Delaware [Mr. SAULSBURY], but, as I understand, if present, he would vote the same way that I have voted. I shall allow my vote to stand.

Mr. FALL. I am paired with the senior Senator from West Virginia [Mr. CHILTON]. The Senator from West Virginia, if present, would vote as I intend to vote. I therefore vote. I vote "yea."

Mr. CURTIS. I desire to announce the unavoidable absence and pairs of the following Senators:

The Senator from New Hampshire [Mr. GALLINGER] with the Senator from New York [Mr. O'GORMAN]; and

The Senator from West Virginia [Mr. GOFF] with the Senator from South Carolina [Mr. TILLMAN].

Mr. McCUMBER (after having voted in the affirmative). I desire to inquire whether the senior Senator from Colorado [Mr. THOMAS] has voted?

The VICE PRESIDENT. He has not.

Mr. McCUMBER. I have a pair with that Senator, but I transfer that pair to the junior Senator from Utah [Mr. SUTHERLAND] and will allow my vote to stand.

Mr. STERLING (after having voted in the affirmative). I desire to inquire if the Senator from South Carolina [Mr. SMITH] has voted?

The VICE PRESIDENT. He has not voted.

Mr. STERLING. I have a pair with that Senator, but I understand that if present he would vote the same way as I have voted. I will therefore allow my vote to stand.

Mr. CATRON. Understanding that my pair, the Senator from Oklahoma [Mr. OWEN], would vote the same way as I shall vote, I vote "yea."

Mr. WEEKS (after having voted in the affirmative). Has the senior Senator from Kentucky [Mr. JAMES] voted?

The VICE PRESIDENT. He has not voted.

Mr. WEEKS. I have a pair with that Senator, and therefore withdraw my vote.

Mr. POMERENE. I have been requested to announce the unavoidable absence of the senior Senator from New York [Mr. O'GORMAN] and to state that he is paired with the senior Senator from New Hampshire [Mr. GALLINGER].

Mr. WEEKS. I am informed that my pair, the Senator from Kentucky [Mr. JAMES], if present, would vote as I have voted. I will therefore allow my vote to stand as originally cast.

Mr. WILLIAMS. I desire to transfer my pair with the Senator from Pennsylvania [Mr. PENROSE] to the Senator from Arizona [Mr. SMITH]. I vote "yea."

Mr. STONE (after having voted in the affirmative). I transfer my pair with the Senator from Wyoming [Mr. CLARK] to the Senator from Louisiana [Mr. BROUSSARD], and I will permit my vote to stand.

The result was announced—yeas 60, nays 10, as follows:

YEAS—60.

Ashurst	Hollis	Nelson	Smith, Md.
Beckham	Husting	Newlands	Smith, Mich.
Brady	Johnson, Me.	Overman	Smoot
Brandeggee	Johnson, S. Dak.	Page	Sterling
Bryan	Jones	Pittman	Stone
Catron	Kern	Poindexter	Swanson
Chamberlain	Kirby	Pomerene	Thompson
Colt	Lea, Tenn.	Ransdell	Townsend
Culberson	Lippitt	Reed	Underwood
Curtis	Lodge	Robinson	Wadsworth
Dillingham	McCumber	Shafroth	Walsh
Fall	McLean	Sheppard	Warren
Fernald	Martin, Va.	Sherman	Watson
Fletcher	Martine, N. J.	Simmons	Weeks
Hardwick	Myers	Smith, Ga.	Williams

NAYS—10.

Borah	Kenyon	Lee, Md.	Works
Cummins	La Follette	Norris	
Gronna	Lane	Vardaman	

NOT VOTING—26.

Bankhead	Goff	O'Gorman	Smith, Ariz.
Broussard	Gore	Oliver	Smith, S. C.
Chilton	Harding	Owen	Sutherland
Clapp	Hitchcock	Penrose	Thomas
Clark	Hughes	Phelan	Tillman
du Pont	James	Saulsbury	
Gallinger	Lewis	Shields	

So the bill was passed.

On motion of Mr. OVERMAN, the title was amended so as to read: "A bill to punish espionage and acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, and better to enforce the criminal laws of the United States, and for other purposes."

Mr. OVERMAN. Mr. President, I ask unanimous consent that the 13 bills now upon the calendar which are covered by the bill which has just been passed, from Order of Business 907 to Order of Business 920, both inclusive, with the exception of Order of Business 912, which is the bill just passed, may be taken from the calendar and indefinitely postponed.

The VICE PRESIDENT. In the absence of objection, it will be so ordered.

The titles of the bills indefinitely postponed are as follows:

A bill (S. 6813) to prohibit and punish the willful making of untrue statements under oath to influence the acts or conduct of a foreign Government, or to defeat any measure of the Government of the United States in a dispute or controversy with any foreign nation;

A bill (S. 6816) to prevent and punish the impersonation of officials of foreign Governments duly accredited to the Government of the United States;

A bill (S. 6793) to prevent and punish willful injury or attempted injury to, or conspiracy to injure, any vessel engaged in foreign commerce, or the cargo or persons on board thereof, by fire, explosion, or otherwise;

A bill (S. 6795) to authorize the collector of customs, or other officer duly empowered by the President, during time of war between foreign nations, to inspect private vessels within the jurisdiction of the United States for the purpose of detecting any use or attempted use of such vessel in violation of the law of nations or of the treaties or statute law of the United States, and for other purposes;

A bill (S. 6797) to regulate and safeguard the issuance of passports, and to prevent and punish the fraudulent obtaining, transfer, use, alteration, or forgery thereof;

A bill (S. 6794) to empower the President to better enforce and maintain the neutrality of the United States;

A bill (S. 6796) to require sworn statements, in addition to the manifests and clearances required by existing law, by masters of all vessels leaving the jurisdiction of the United States, and by all owners and shippers of cargoes thereon, during a war in which the United States are a neutral nation, and for other purposes;

A bill (S. 6798) to prohibit and punish the fraudulent use, application, or counterfeiting of the seal of any executive department or Government commission;

A bill (S. 6799) to amend section 13 of the act "To codify, revise, and amend the penal laws of the United States," approved March 4, 1909;

A bill (S. 6811) to authorize the seizure, detention, and condemnation of arms and munitions of war in course of exportation or designed to be exported or used in violation of the laws of the United States, together with the vessels or vehicles in which the same are contained;

A bill (S. 6812) to regulate and restrain the conduct and movements of interned soldiers and sailors of belligerent nations, and for other purposes;

A bill (S. 6815) to prevent and punish conspiracy to injure or destroy property situated within and belonging to a foreign Government with which the United States are at peace, or of any subdivision or municipality thereof; and

A bill (S. 6819) to provide for the issuance of search warrants and the seizure and detention of property thereunder, and for other purposes.

GOVERNMENT OF PORTO RICO.

Mr. SHAFROTH. Mr. President, I have an arrangement now, I believe, with everybody who has objected with relation to the Porto Rican bill. I think the passage of the bill can now be completed in a few moments. I therefore move that the bill (H. R. 9533) to provide a civil government for Porto Rico, and for other purposes, be considered by the Senate at this time.

The VICE PRESIDENT. The question is on the motion of the Senator from Colorado to proceed to the consideration of what is known as the Porto Rican bill.

Mr. POMERENE. Mr. President, was there not at least an informal understanding on yesterday that at the close of the morning business we should take up the interstate commerce bill?

Mr. SHAFROTH. I do not think it will take a moment to complete the consideration of the Porto Rican bill.

Mr. POMERENE. I have heard that statement made repeatedly in connection with that bill.

Mr. SHAFROTH. That may be; but if Senators will not continue the debate on the bill it may be speedily completed.

Mr. POMERENE. There are some Senators here who have inconvenienced themselves to be present particularly to take up the interstate commerce bill, and I do not feel, in view of the understanding we had yesterday, that the Senator from Colorado is justified in making his request.

Mr. SHAFROTH. I have been trying to get the Porto Rican bill disposed of for months instead of simply on yesterday.

Mr. POMERENE. I realize that.

The VICE PRESIDENT. This is not a debatable question. It is easy to vote it up or vote it down. The motion to take up a bill before the expiration of the morning hour is not debatable. The question is on the motion of the Senator from Colorado to proceed to the consideration of the bill named by him.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 9533) to provide a civil government for Porto Rico, and for other purposes.

Mr. SHAFROTH. I move, as a substitute for section 35, the amendment which I send to the desk, which, I think, meets the approval of all Senators who have objected to that section.

The VICE PRESIDENT. The amendment, in the nature of a substitute, will be stated.

The SECRETARY. In lieu of section 35 as now found in the bill it is proposed to insert the following:

That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter voters shall be citizens of the United States, 21 years of age and over, and have such additional qualifications as may be prescribed by the Legislature of Porto Rico: *Provided*, That no property qualification shall ever be imposed upon or required of any voter.

Mr. SMOOT. Mr. President, I desire to ask the Senator having the bill in charge if the amendment has been submitted to the Senator from Wisconsin [Mr. LA FOLLETTE]?

Mr. SHAFROTH. It has, and it meets with his approval.

Mr. SMOOT. And he does not intend to offer the amendment that he offered to the bill when it was last under consideration?

Mr. SHAFROTH. No, sir; he does not.

Mr. MARTINE of New Jersey. Mr. President, may I ask the Senator whether there remains in the bill the qualification as to the payment of \$3 in taxes?

Mr. SHAFROTH. That has been eliminated entirely. Question, Mr. President.

Mr. WADSWORTH. Mr. President, I desire to ask the Senator from Colorado if he is clearly of the opinion that this amendment would provide woman suffrage in Porto Rico?

Mr. SHAFROTH. No; it is not intended to force woman suffrage. The bill could not possibly get through Congress in the remaining 10 days of this session if it were complicated with that question.

Mr. WADSWORTH. Will the Legislature of Porto Rico, under this amendment, have power to prescribe qualifications in such a way as to confine the franchise to male voters?

Mr. SHAFROTH. It can prescribe whatever additional qualifications it may see fit, under the restrictions imposed by this provision. The only qualification required under this provision as it now stands is citizenship and that the voter must be 21 years of age or over. Question, Mr. President.

The VICE PRESIDENT. The question is—

Mr. JONES. Mr. President, I desire to ask the Senator whether he thinks that the Legislature of Porto Rico can deny to some of its citizens the right to vote under this provision?

Mr. SHAFROTH. Well, Mr. President, that is for them to determine. They have that power under this amendment.

Mr. JONES. Does the Senator think that under this provision the Legislature of Porto Rico can deny some of its citizens the right to vote on account of their sex?

Mr. SHAFROTH. That will be a qualification that can be determined by act of the legislature in connection with this provision.

Mr. JONES. I desire to understand the purpose of this amendment and the effect of it. It says, does it not—I have only just now heard it read—that all citizens of the United States, having a certain other qualification as to age, shall have the right to vote?

Mr. SHAFROTH. It says that voters shall be of a certain age, and that other qualifications may be prescribed by the Legislature of Porto Rico.

Mr. JONES. Yes; but the legislature can not deprive citizens because of their sex of the right to vote, can it?

Mr. SHAFROTH. The legislature may prescribe that a person shall live for a certain length of time in Porto Rico; they can require that questions of bonded indebtedness shall be voted upon by taxpayers, and can make other qualifications.

Mr. JONES. But can they say that because of their sex persons shall not have the right to vote?

Mr. SHAFROTH. It seems to me that that is in their power under the authority given.

Mr. JONES. Well, I doubt if it ought to be adopted, then.

Mr. SHAFROTH. I appeal to the Senator to let the bill be passed.

Mr. KENYON. Question!

Mr. JONES. We are legislating here for a million and a half of people, and we can not legislate simply by saying, "Oh, let it go through." That is not the way to legislate for human beings. There may be grave doubts about the capacity of the Porto Rican women to exercise the franchise. There is doubt as to the capacity of the men. I am satisfied that the Porto Rican women are just as capable as the Porto Rican men. If one is ignorant, so is the other; if one is inexperienced, so is the other; if one can govern, so can the other; if one sex is competent, so is the other.

Mr. SHAFROTH. The Legislature of Porto Rico will only have the power that is given to every State legislature and that has been given to every legislature under a Territorial form of government, and there has been no abuse of the powers thus granted.

Mr. JONES. I am not so sure about that. I should like to hear the amendment read again.

The VICE PRESIDENT. The Secretary will again read the amendment.

The SECRETARY. In lieu of section 35 as now found in the bill it is proposed to insert the following:

That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter voters shall be citizens of the United States, 21 years of age or over, and have such additional qualifications as may be prescribed.

Mr. JONES. I will make no objection to the amendment, Mr. President.

Mr. SHAFROTH. Question!

Mr. VARDAMAN. Mr. President, the Senator from Colorado has not kept his promise. He said that he would finish this bill in three minutes. I move now that the Senate proceed to the consideration of what is known as the flood-control bill.

Mr. SHAFROTH. We have reached the point where we can vote right now, if the Senator will just let us do so. Question, Mr. President!

The VICE PRESIDENT. The question is on the amendment—

Mr. MARTINE of New Jersey. Mr. President, one moment. I should like to ask what are the qualifications under the present law? We may be voting for a cat in a bag. [Laughter.]

Mr. SHAFROTH. The qualifications under the present law are citizenship in Porto Rico and 21 years of age. That is all.

Mr. MARTINE of New Jersey. Are there no other qualifications than those?

Mr. SHAFROTH. No; I think not.

Mr. MARTINE of New Jersey. Well, that is very indefinite—"I think not."

Mr. SHAFROTH. That is the law.

Mr. MARTINE of New Jersey. I read in a newspaper quite recently an article wherein it was stated that this bill proposes to grant the right of suffrage to the women of Porto Rico. If that is the case, I shall not knowingly vote for the measure, for I am unqualifiedly opposed to woman suffrage. I think it would be a detriment to the Commonwealth, and I believe it would be a misfortune and disaster for the women. If I believed that it would elevate women and enhance the well-being of our Nation, I would advocate it; but the contrary, to my mind, is true.

Mr. SHAFROTH. I will state to the Senator that under the present law women do not vote, and consequently the bill confers no particular privilege upon them except that it gives the Legislature of Porto Rico the right to determine such questions, just as the acts of Congress do which create Territories.

Mr. MARTINE of New Jersey. Let me ask whether the prohibition provision is included in the bill?

Mr. SHAFROTH. The prohibition provision is something that was settled the last time the bill was under consideration, and a referendum is provided to the people of Porto Rico. Question, Mr. President.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Colorado in the nature of a substitute for section 35 as now in the bill.

Mr. VARDAMAN. Mr. President, I withdraw the motion I made a few moments ago. I see the Senator from Colorado is about ready to jump.

Mr. SHAFROTH. Question, Mr. President.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Colorado.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill read a third time.

The bill was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass? The bill was passed.

Mr. SHAFROTH. I move that the Senate request a conference with the House on the bill and amendments, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. SHAFROTH, Mr. KERN, and Mr. POINDEXTER conferees on the part of the Senate.

INTERSTATE COMMERCE COMMISSION.

Mr. NEWLANDS. I move that the Senate proceed to the consideration of the bill for the enlargement of the Interstate Commerce Commission, H. R. 308.

The VICE PRESIDENT. The question is on the motion of the Senator from Nevada.

Mr. VARDAMAN. Mr. President—

The VICE PRESIDENT. The question is not debatable until 1 o'clock.

Mr. VARDAMAN. Is it amendable?

The VICE PRESIDENT. It is not amendable.

Mr. VARDAMAN. I call for the yeas and nays on the motion.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BECKHAM (when his name was called). Making the same transfer as on the last roll call, I vote "yea."

Mr. COLT (when his name was called). In the absence of my pair, the junior Senator from Delaware [Mr. SAULSBURY], I withhold my vote.

Mr. SIMMONS (when his name was called). Making the same transfer as announced on the former roll call, I vote "yea."

Mr. STONE (when his name was called). I transfer my pair with the senior Senator from Wyoming [Mr. CLARK] to the junior Senator from Louisiana [Mr. BROUSSARD] and vote "yea."

Mr. UNDERWOOD (when his name was called). I have a general pair with the junior Senator from Ohio [Mr. HARDING], who is confined to his home by sickness. I do not know how he

would vote on this matter and therefore withhold my vote. If he were present, I would vote "yea."

The roll call was concluded.

Mr. LODGE. I have a general pair with the senior Senator from Georgia [Mr. SMITH]. Understanding that he would vote as I am about to vote, I vote "yea."

Mr. CATRON. I have been informed that my pair, the junior Senator from Oklahoma [Mr. OWEN], would vote as I would vote. I therefore vote "yea."

Mr. CHAMBERLAIN. I transfer my general pair with the junior Senator from Pennsylvania [Mr. OLIVER] to the junior Senator from New Jersey [Mr. HUGHES] and vote "yea."

The result was announced—yeas 50, nays 9, as follows:

YEAS—50.

Ashurst	Hardwick	Myers	Sterling
Bankhead	Hollis	Newlands	Stone
Beckham	Husting	Page	Swanson
Brady	James	Pittman	Thomas
Brandeggee	Johnson, S. Dak.	Poindexter	Thompson
Bryan	Jones	Pomerene	Townsend
Catron	Kern	Robinson	Wadsworth
Chamberlain	Lea, Tenn.	Shafroth	Walsh
Curtis	Lippitt	Sheppard	Warren
Dillingham	Lodge	Sherman	Watson
Fall	McLean	Simmons	Weeks
Fernald	Martin, Va.	Smith, S. C.	
Fletcher	Martine, N. J.	Smoot	

NAYS—9.

Cummins	Kirby	Lane	Norris
Gronna	La Follette	Nelson	Vardaman
Kenyon			

NOT VOTING—37.

Borah	Gore	Overman	Smith, Md.
Broussard	Harding	Owen	Smith, Mich.
Chilton	Hitchcock	Penrose	Sutherland
Clapp	Hughes	Phelan	Tillman
Clark	Johnson, Me.	Ransdell	Underwood
Colt	Lee, Md.	Reed	Williams
Culberson	Lewis	Saulsbury	Works
du Pont	McCumber	Shields	
Gallinger	O'Gorman	Smith, Ariz.	
Goff	Oliver	Smith, Ga.	

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 308) to amend the act to regulate commerce, as amended, and for other purposes.

The Secretary read the bill, as follows:

Be it enacted, etc., That section 24 of an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, be further amended to read as follows:

"SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of nine members, with terms of seven years, and each shall receive \$10,000 compensation annually. The qualifications of the members and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1921, and one for a term expiring December 31, 1922. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than five commissioners shall be appointed from the same political party."

SEC. 2. That section 17 of said act, as amended, be further amended to read as follows:

"SEC. 17. That the commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. The commission shall have an official seal, which shall be judicially noticed. Any member of the commission may administer oaths and affirmations and sign subpoenas. A majority of the commission shall constitute a quorum for the transaction of business, except as may be otherwise herein provided, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. The commission may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any division of the commission, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before the commission or any division thereof and be heard in person or by attorney. Every vote and official act of the commission, or of any division thereof, shall be entered of record, and its proceedings shall be public upon the request of any party interested."

"The commission is hereby authorized by its order to divide the members thereof into as many divisions as it may deem necessary, which may be changed from time to time. Such divisions shall be denominated, respectively, division 1, division 2, etc. Any commissioner may be assigned to and may serve upon such division or divisions as the commission may direct, and the senior in service of the commissioners constituting any of said divisions shall act as chairman thereof. In case of vacancy in any division, or of absence or inability to serve thereon of any commissioner thereto assigned, the chairman of the commission, or any commissioner designated by him for that purpose, may temporarily serve on said division until the commission shall otherwise order."

"The commission may by order direct that any of its work, business, or functions arising under this act, or under any act amendatory thereof, or supplemental thereto, or under any amendment which may be made to any of said acts, or under any other act or joint resolution which

has been or may hereafter be approved, or in respect of any matter which has been or may be referred to the commission by Congress, or by either branch thereof, be assigned or referred to any of said divisions for action thereon, and may by order at any time amend, modify, supplement, or rescind any such direction. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the commission.

"In conformity with and subject to the order or orders of the commission in the premises, each division so constituted shall have power and authority by a majority thereof to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions so assigned or referred to it for action by the commission, and in respect thereof the division shall have all the jurisdiction and powers now or then conferred by law upon the commission, and be subject to the same duties and obligations. Any order, decision, or report made or other action taken by any of said divisions in respect of any matters so assigned or referred to it shall have the same force and effect, and may be made, evidenced, and enforced in the same manner, as if made or taken by the commission as a whole. The secretary and seal of the commission shall be the secretary and seal of each division thereof.

"The salary of the secretary of the commission shall be \$7,500 per annum.

"Nothing in this section contained, or done pursuant thereto, shall be deemed to divest the commission of any of its powers."

SEC. 3. So much of section 18 of the act to regulate commerce as fixes the salary of the secretary of the commission is hereby repealed.

Mr. CUMMINS. Mr. President, I do not want to precede my friend the chairman of the committee if he cares to discuss the bill at this time.

Mr. NEWLANDS. Mr. President, I do not care to discuss it at this time. I assume that the necessity of passing the bill is well known to the Senate, and I do not wish to consume time.

Mr. CUMMINS. Mr. President, I have no doubt that the Interstate Commerce Commission ought to be reorganized. Unquestionably it has more work to do than it can possibly do as it is organized at the present time. I had hoped that the reorganization of the commission would be postponed until the report of the joint committee of the House and Senate, raised to consider this special subject, had come in; but I do not intend to lay a straw in the way of the consideration and the disposition of this bill. I have two or three objections to it which I hope can be removed by proper amendments.

The bill contemplates the addition of two members. We would then have a commission of nine members. I have no objection to a commission of nine members. I think there ought to be a commission of 15 members or more. What is proposed here will be very temporary and very inadequate to meet the real situation, and I have no doubt that the joint committee of the two Houses of Congress will ask for a very much larger commission than is here proposed—at least, I hope it will so report—and for a division of that commission so that proceedings for the purpose of securing relief against unreasonable rates and unfair practices may be instituted and carried forward with less inconvenience and less expense than now attend such proceedings.

Mr. POMERENE. Mr. President—

Mr. CUMMINS. I yield to the Senator from Ohio.

Mr. POMERENE. From the study I have given this measure, I am disposed to think that the commission ought to be larger than nine; but the situation is such that I feel that any relief at this time would be of very great value to the country. Why may we not increase the membership of the commission to nine now? And later, if after the joint committee has concluded its deliberations it should conclude to increase the number to 15, that can be done by Congress quite as well. Meanwhile, we will be getting some relief.

There are many questions, such as car shortage and distribution of cars, that are coming before the commission now, and are of the utmost importance to the people of the country. I say nothing of the many other classes of questions which are coming up; but I feel that we could best serve the country by granting this increase at the present time under the terms of this bill.

Mr. CUMMINS. What I suggested was purely preliminary, for I do not bottom my objection to the bill before us on any such ground. I was merely expressing my hope, which I have held for some time, that when we did begin the reorganization of the commission it might be one that would give the relief sought. I doubt very much whether the mere increase of the commission by two members will afford any real relief compatible with the sound principles which should control a body of that sort.

I point out why I think the bill is inadequate. I quote:

The commission is hereby authorized by its order to divide the members thereof into as many divisions as it may deem necessary, which may be changed from time to time. Such divisions shall be denominated, respectively, division 1, division 2, etc.

It will be observed that the commission may divide itself into nine divisions if it is thought desirable by the commission to do so. In that event we will have nine commissions composed of

one member each. Bearing that in mind, I call the attention of the Senate to the power of each one of these divisions. I quote from page 5 of the bill:

Any order, decision, or report made or other action taken by any of said divisions in respect of any matters so assigned or referred to it shall have the same force and effect, and may be made, evidenced, and enforced in the same manner as if made or taken by the commission as a whole.

Under the law as it is proposed it will be possible, it may be probable—I do not know what the exigencies of the commission may lead it to do—to divide it into nine divisions. The decision of each man, of each division, will be final. It is unreviewable. I mean unreviewable as a matter of right, and whatever power the Interstate Commerce Commission as a whole has had up to this time may be exercised by the single man if the commission is thus divided. It is more likely it will divide itself into divisions of two, leaving one possibly with three. That is the most likely thing; but it is impossible for any of us just at this date to state just how the commission may think it necessary to distribute itself over the work which it has in hand.

Mr. President, I am wholly opposed to any such situation. The Interstate Commerce Commission performs a work more important to the people of this country than any other tribunal which we have constituted, not excepting the Supreme Court of the United States. Its decisions affect more people and they affect them more vitally than the decisions of any other body—I mean of administrative or judicial or quasi-judicial character—which has been created under our laws. I can not give my assent to the proposal that one commissioner or even two commissioners and in some cases three commissioners shall have the jurisdiction which has heretofore been exercised by the seven commissioners.

Mr. KENYON. Mr. President—

Mr. CUMMINS. I yield to my colleague.

Mr. KENYON. I should like to ask the Senator at this point, suppose the commission is divided into three groups or three divisions. Each one has full power, as I understand the bill, to make binding orders. Suppose the division that is in the West has a question before it and the division in the East has exactly the same question and they decide the question in exactly opposite ways. Is there any provision here for any review of that by the commission? Is there anything to bring about uniformity of decisions on important questions through the different divisions?

Mr. CUMMINS. I am not able to find any such provision.

Mr. KENYON. I have been unable to find it, and that is why I asked the question.

Mr. CUMMINS. Whatever uniformity is desirable could only be secured through informal or extra-official action. There is no provision for an appeal from any division to the full commission. There is no review provided for as I read the bill.

It has been said that we ought to increase the commission on account of the great importance of certain phases of the regulation problems it has before it. I agree as to the importance of those phases of the work. Allow me to call your mind for a moment to one aspect of the work the commission is now or will shortly be engaged in doing. The valuation of the railroad property of this country. Are you willing to give to one man or to two men or even to three men the final jurisdiction to declare what the railway valuation shall be? When it is engaged in that work it is engaged in doing something that will affect this country for all time to come, and to me it is intolerable to even suggest that the commission should have the power to delegate that work and to delegate the authority to one, two, or even three men to make a decision upon the work in a matter which involves railway property said to be of the value of more than \$20,000,000,000. A very little divergence from the true principle which ought to prevail in any investigation of that character might impose, for all the years to come, tremendous burdens upon the people. When we passed the act which relates to the valuation of common-carrier property we supposed we were going to have the judgment of seven eminent men upon that somewhat new and difficult problem. We are now asked to pass a bill which may remit us to the judgment of one man upon it.

I discussed not long ago the tendencies of at least one man upon this commission, and I do not believe the people of the country would accept it with much toleration if, in the division of the commission, it should happen that those who hold these views should be charged with the work of determining the value of the railway property freed from any influence on the part of their associates. It may be that these things have been in the minds of those who have proposed the bill, but having so

great confidence in them I must think that they have not considered them.

Again, the work of the commission is of a character three-fourths of which—

Mr. McLEAN. Mr. President—

Mr. CUMMINS. I yield to the Senator from Connecticut.

Mr. McLEAN. The Senator is a member of the Committee on Interstate Commerce. I should like to ask him if he presented these views to the committee.

Mr. CUMMINS. I did not. I was not present when this bill was reported. I did not know it was to be reported, although I do not charge the least want of good faith. It was perfectly understood that I did not favor the reorganization of the commission at this time. The Senator from Nevada had introduced a bill which is the exact duplicate of this, which was pending before the committee, and at some time, in a perfectly proper way of course, the present bill was taken up and reported just as it passed the House.

Mr. McLEAN. The Senator does not know whether the committee considered the propriety of an amendment allowing an appeal on such an important question as he suggests.

Mr. CUMMINS. I do not know, and I intend the Senate shall have an opportunity of considering some amendment of that character. I was about to remark—

Mr. WATSON. Mr. President—

Mr. CUMMINS. I yield to the Senator from Indiana.

Mr. WATSON. The Senator is perhaps more familiar with the Interstate Commerce Commission and its business than any other Senator. Therefore I ask for information. I want to find out what course he has to suggest and what policy he would adopt in reference to relieving the congestion of business before the commission.

Mr. CUMMINS. I believe we ought to have divisional or regional commissioners, either three or five of them, sitting in various parts of the country, who could be approached by those who feel themselves aggrieved, who could take jurisdiction of complaints and hear them and decide them without requiring all the shippers of the country or others who may be dissatisfied with rates or practices to come to Washington and here remain over a long period of time in order to obtain a hearing and a decision. I believe there ought to be in Washington a commission of five or seven members with jurisdiction to hear appeals in certain cases from the divisional or regional commission, but not in all cases. In a general way, I am sure that will give the Senator from Indiana my idea of the reorganization which ought to take place, but we, of course, can not do that on this bill.

I was about to refer to another phase of the work of the commission which is vastly important, namely, those hearings which relate to the reasonableness of rates and to alleged discriminations. One might think that constitutes a large part of the work of the commission. I do not think so. I think there is a great deal of the work of the commission that could be done by one man. It could be done by a board of examiners, which the commission already has the authority to create. There are thousands of things which are of no great difficulty, such as the application of the safety-appliance laws and other things of that character, and the consideration of claims for reparation where an overcharge has been established but where there must be a computation and evidence heard that would show the amount the railway company ought to restore to the shipper. All these things take a vast amount of time, and I do not wonder that the commission is overwhelmed with work of this kind, a large part of which it ought not to do at all. But when a question involving the reasonableness of a rate comes before the commission it presents an entirely different matter. Then the commission is called upon to decide as between shippers, usually in a very large territory and affecting a very large interest.

Mr. STERLING. Mr. President—

The PRESIDING OFFICER (Mr. LEA of Tennessee in the chair). Does the Senator from Iowa yield to the Senator from South Dakota?

Mr. CUMMINS. I yield.

Mr. STERLING. I appreciate what the Senator says and the objection that he makes. It seems to me that under the provisions of the bill we shall have an Interstate Commerce Commission of three members instead of nine members, because the three constituting a division may decide the most important cases that ever could come before the commission. It has occurred to me that the orders of a division might be made subject to the approval of the full commission. I should like to call the Senator's attention to an amendment, just as a suggestion. In line 24, page 4, after the word "shall," insert "subject to the approval of any final order or decision made or rendered by the full commission"; then, on the following page, change the phraseology, so as to carry out the same idea, after the word

"shall," in line 4, on that page, insert "subject to the approval by the commission as aforesaid."

Mr. CUMMINS. I have not reached my proposals for amendment yet.

Mr. STERLING. The Senator may have some language different, but it occurred to me that that might possibly be suggestive.

Mr. CUMMINS. The suggestion which instantly arises in my mind is this: At whose suggestion would the approval of the full commission be sought?

Mr. STERLING. The law itself would provide for that.

Mr. CUMMINS. Then would any shipper or any railroad company have the right to demand a hearing by the full commission?

Mr. STERLING. No; I would provide that in any final order or decision the approval of the full commission must be had.

Mr. CUMMINS. Must be had. That is going a little further than I want to go, because that would practically defeat the object of the bill which is to exempt in a large part of the work the necessity of the full commission becoming familiar with the case.

Mr. STERLING. I did not think that it would possibly defeat the purposes of the bill. There would be a good many cases perhaps in which the approval of the entire commission would be more or less formal. If, however, it were the consideration of a great rate case, then the entire commission would act, perhaps, after more deliberation; but it would be the work of the entire commission in the end. I do not think there would be any practical difficulty.

Mr. CUMMINS. Mr. President, I would have no objection to the proposal of the Senator from South Dakota [Mr. STERLING], and it may be that is required. I am sure that something of that kind is required to be added to the bill.

I again refer to the different kinds of work done by the commission. A great deal of it is rather formal, and ought to be done by a few men, possibly by one man; but when you come to the question of rates, no one man or no two men ought to have the authority to decide, especially if the full commission is not to pass upon the question.

I propose to offer this amendment—and unfortunately I have not reduced it to writing, but if the Secretary will take it down, I will propose it. In offering it I suggest that I intend to offer some amendment along the line of the thought of the Senator from South Dakota, or to stand for the one he has proposed, for that I think is essential. I propose to add to line 8 on page 5 the following:

In all proceedings relating to the reasonableness of rates or to alleged discriminations, not less than three members shall sit in the hearing and participate in the decision; and in all hearings relating to the valuation of railway property under the act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, by providing for a valuation of the several classes of property of carriers subject thereto, and securing information concerning their stocks, bonds, and other securities," approved March 1, 1913, not less than seven members shall sit in the hearings and participate in the decision.

Mr. NEWLANDS. Is that with reference to the valuation?

Mr. CUMMINS. It is.

Mr. WATSON. Does the Senator contemplate that, when three of the commission shall sit as a court to determine the reasonableness of a rate, there shall be the right of appeal to the full commission?

Mr. CUMMINS. I do; that is, I hope that may be so; at least, I want to get a tribunal composed of three to pass on rate questions.

Mr. KIRBY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Arkansas?

Mr. CUMMINS. I yield to the Senator.

Mr. KIRBY. Does not the Senator from Iowa think that the amendment which he first proposed is already within the provisions and scope of the bill? My experience on the Supreme Court bench of Arkansas, with five members, was that where a majority was required to decide any question it was impracticable to work with less than three men. This whole matter, as I understand, is subject to the order of the commission itself—the entire membership. The Senator will observe that, in lines 18 and 19, on page 4, the commission is divided into divisions, and that then each division is subject to the power of the commission. I believe that it is better to leave this in the hands of the commission, because as to all those matters that are of importance, which the Senator is now suggesting, I feel confident the entire commission will sit, and there will be the judgment of, at least, a majority of the commission on all great questions. If it is left in the power of the commission to make its own rules, I believe it will be better for expediting its business;

that the power be not restricted—that is, my experience has caused me to come to that conclusion. I submit it to the Senator in the consideration of the question for whatever weight it may be entitled to.

Mr. CUMMINS. Mr. President, I suppose the commission would have the power to make no division of less than nine members, and in that way it could retain all the power that it now has; but the language cited by the Senator from Arkansas [Mr. KIRBY] I think hardly bears the construction which he puts upon it. I will read it. It is as follows:

In conformity with and subject to the order or orders of the commission in the premises, each division so constituted shall have power and authority by a majority thereof to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions so assigned or referred to it for action by the commission—

That regulates the power of the commission in assigning the work. Then the bill proceeds to say:

And in respect thereto—

That is, the work that has been assigned to it by the commission, whether it is a division of one, two, three, four, five, or no matter what the number may be—

the division shall have all the jurisdiction and powers now or then conferred by law upon the commission and be subject to the same duties and obligations. Any order, decision, or report made or other action taken by any of said divisions in respect of any matters so assigned or referred to it shall have the same force and effect and may be made, evidenced, and enforced in the same manner as if made or taken by the commission as a whole.

Those words are entirely inconsistent with the reservation of power upon the part of the full commission respecting the orders of the division.

Mr. President, I have submitted my amendment, and I ask the Secretary to state it as he has taken it down, in order to be sure that it is right.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from Iowa.

The SECRETARY. On page 5, after line 8, it is proposed to insert:

In all proceedings relating to the reasonableness of rates or to alleged discriminations not less than three members shall sit in the hearing and participate in the decision; and in all hearings relating to the valuation of railway property under the act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof by providing for a valuation of the several classes of property of carriers subject thereto and securing information concerning their stocks, bonds, and other securities," approved March 1, 1913, not less than seven members shall sit in the hearings and participate in the decision.

Mr. NEWLANDS. Mr. President, I have no objection at all to the first amendment which the Senator presents as to a membership of not less than three, but, on the contrary, I quite approve of that. As to the membership of seven in connection with railway valuation, I would have no objection to that, except for the fear that that would absorb so large a proportion of the time of the commission as to prevent them from attending to their other duties.

As I understand, the hearings regarding valuation have just commenced. They will be of enormous proportions. I judge, from the issues presented, the protests made, and the briefs filed. What I fear is that if we require that seven of the nine members of the commission shall apply themselves to that subject there will be no time for the commission to attend to its other business. Can not the Senator suggest some method of appeal to the entire commission regarding that matter which would suit his view?

Mr. WATSON. Mr. President—

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Nevada yield to the Senator from Indiana?

Mr. NEWLANDS. I do.

Mr. WATSON. Does not the Senator think that in a matter so important as the determining of the reasonableness of a rate or in a matter so important as the subject of valuation there should be the right of appeal to the full commission, or that the full commission, at least, should be asked to pass upon and either approve or disapprove the findings of the lesser number, consisting of three commissioners in this instance?

Mr. NEWLANDS. I have not the slightest doubt that the commission will so arrange its rules and regulations as to keep control of these cases, if it deems it necessary. The Senator will observe on page 4, lines 13, 14, and 15, down to line 17, the provision is made that the commission "may by order at any time amend, modify, supplement, or rescind any such direction. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the commission."

Mr. WATSON. That is quite true; but the Senator will also observe—

Mr. NEWLANDS. And I imagine the good judgment of the commission will probably be a better guide for the action of the commission through rules, and so forth, than any hard and

fast rule which we might adopt here in the hurry of legislation.

Mr. WATSON. But let me call the attention of the Senator from Nevada to lines 23 and 24, on page 4, which read:

And in respect thereof the division shall have all the jurisdiction and powers now or then conferred by law upon the commission.

That is the clause of which I am making particular complaint.

Mr. TOWNSEND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Michigan?

Mr. TOWNSEND. I do not care to interrupt the Senator. I thought he had yielded the floor.

Mr. NEWLANDS. I wish to ask the Senator from Iowa whether he would not be willing to reduce the number from seven to five? In that event I would be disposed to accept the amendment, with the understanding that it will be considered in conference. The Senator will doubtless be one of the conferees.

Mr. CUMMINS. I hope the Senator from Nevada will not ask me to do that. It is by far the most important work ever put upon the commission; it is infinitely difficult, as well as overwhelmingly important. The Senator from Nevada, I think, has an erroneous idea with regard to the way in which the work is done.

The commission created what is known as a committee on valuation. Judge Prouty resigned from the commission in order to become the head of the committee on valuation. The committee on valuation is the employee of the commission. It takes all the testimony. No member of the commission is present or required to be present at the taking of the testimony. The committee on valuation hears, in the first instance, the arguments of the railways upon the one side or those who may be interested upon the other. The committee on valuation then reports to the commission. It is in the nature of an appeal. It is only a hearing that is required to be had, and I had very great difficulty in bringing myself to suggest that even a less number than the whole commission should pass on matters of valuation.

Mr. NEWLANDS. Well, Mr. President, I recognize the importance of the question the Senator has raised, and I will state that I have no objection to the amendment going in the bill. It will be considered in conference and the Senator will be one of the conferees. I am as anxious as is the Senator, of course, to have this whole commission reorganized in such a way as to properly guard the interests of the public. I accept the amendment.

Mr. TOWNSEND obtained the floor.

Mr. KIRBY. Mr. President, I desire to object to that amendment.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. TOWNSEND. Mr. President, I do not want to say anything to delay the action of the Senate on this matter, for I think it is one of the most vital things that has been brought or will be brought before the Senate. I think there is a very serious misunderstanding, however, on the part of some of the Senators in reference to this subject. I can see no reason why the matter of valuation of railroads should be treated differently from any other matter pending before the commission. Personally I regard this valuation subject as the least important thing with which the Interstate Commerce Commission has to deal.

The majority of the commission act upon all matters that come before it, but this proposition of the Senator from Iowa is to make seven members sit in all hearings. I am sure that the conferees in considering it will see the point of it and reject it, and therefore I do not care to occupy the time of the Senate in discussing it.

All of these questions decided by the commission are subject to a practical appeal, in a measure; they are all subject to a rehearing. The present interstate-commerce law provides for a rehearing on all matters, and this bill is but an extension of the existing law. So that any person interested can ask for a rehearing, and it will be determined by the commission, the entire commission or a majority of them. The question is then finally settled.

We had this up before the committee and held extensive hearings upon it, at which appeared some of the commissioners. Mr. Commissioner Clark was present and explained the whole situation, and I desire to say a word in reference to his testimony on this important subject, as it makes it clear to me, as I think it will do to other Senators:

The Senator from Rhode Island [Mr. LIPPITT], a member of the committee, in examining Mr. Clark, asked this question:

Mr. Clark, under this bill, the decisions of the subdivisions are final, are they; there is no appeal to the full commission?

Commissioner CLARK. Oh, I do not understand that to be so. I undertook to explain a while ago that in subdividing under that authority of that kind the purpose of the commission would be to delegate to certain subdivisions the handling and disposition of certain particular matters but retaining for the commission all the time the right to bring any matter, either on appeal or by initiative of the commission itself, before the full commission.

Senator LIPPITT. Would a dissatisfied individual have the right to appeal from a decision?

Commissioner CLARK. He would have the right to petition for a rehearing and have that considered by the whole commission.

Mr. WATSON. Now, Mr. President—

Mr. TOWNSEND. Let me finish this testimony, and then I will yield to the Senator.

Mr. WATSON. Very well.

Mr. TOWNSEND. I continue the quotation:

Senator LIPPITT. He would have the right to petition but not the right to make an appeal and have it necessarily granted?

Commissioner CLARK. I think it would be futile to confer upon him the absolute right to have the rehearing before the full commission if he were dissatisfied with the decision of the subdivision in the first instance.

Senator SMITH of South Carolina. The full commission would at least pass upon whether his appeal had good grounds?

Commissioner CLARK. If he filed an appeal for rehearing before the full commission it would be handled in principle just as petitions for rehearing are now handled. They are analyzed in the light of the report of the commission, and if he alleges any error in fact the record is gone over to ascertain whether that allegation is well founded, and then the entire commission determines whether or not a rehearing is justified and ought to be granted. We do grant a good many and we deny a good many. We act on them only after there has been a very careful scrutiny of every allegation in the petition.

Senator LIPPITT. Of course the bill says in respect thereof the division shall have all the jurisdiction and powers now conferred upon the commission, so that would give the decision of the subdivision the full effect of a decision by the full commission?

Commissioner CLARK. Yes; the real idea underlying that was to authorize a subcommittee to enter an order for the commission.

That is the whole idea of passing this act to amend the present interstate-commerce law.

Mr. WATSON. And yet he goes on to say that the right of appeal, or the right of approval, would lie to the entire commission.

Mr. TOWNSEND. Yes.

Mr. WATSON. That is the substance of his testimony all the way through.

Mr. TOWNSEND. Yes.

Mr. WATSON. Now, of course, they have not hitherto made these divisions of the commission. How does he happen to give testimony of that kind?

Mr. TOWNSEND. Heretofore they have been obliged to rely upon subordinates. It has been an absolute human impossibility for the commission to hear these cases personally. They have had to rely upon their subordinates. Each one of the commission now is delegated to consider certain particular branches of the business; but of course he confers with his associates, and a determination is had by a majority where there is a disputed question. Many matters are governed fully by precedents and general consent is accorded by the whole commission.

Mr. WATSON. I quite fully concur as to the necessity of action, but I was trying to get at this point: He is simply one man stating what might be the custom or might be the practice of the commission—that they might grant the right of appeal from a commission of three to the full body. What is the objection to simply stating that in this bill and making it mandatory that the right of approval shall rest on the final commission, or the right of appeal shall lie to the full commission?

Mr. TOWNSEND. Well, I understand that the chairman of the committee has accepted the amendment. I am not going to make any objection to it, because I think when six members of the two Houses get down together in conference, and go over this matter, they will see the wisdom of it. They will see that possibly if it is adopted and enforced to the letter it will practically nullify the object which we are seeking to accomplish through the passage of this bill.

Mr. CUMMINS. Mr. President, possibly a word is due from me, in view of the rather remarkable statement made by the Senator from Michigan, which is to the effect that my amendment is not only useless but foolish.

I may be wrong, of course, but I have studied this bill with a good deal of care; and I assert that there will be no power on the part of the commission after this bill is passed to review the action of one of the divisions which is authorized in the bill. The commission acts when it assigns to the division the work, or the branch of the work, which it is to do, and it can abrogate that assignment at any time it likes; but after the division acts there is no right of review, and the commission could not order a review, in my opinion.

Of course at the present time there are no divisions of the commission. One man may do the preliminary work, and either

formally or informally his work is brought before the commission, or a majority of the commission, and the order is entered by that majority.

I have not offered the amendment simply to feel the pleasure of offering an amendment.

Mr. KIRBY. Mr. President, I shall object to the acceptance of this amendment, if it is within the province of a Member of the Senate to do that.

I do not know by whom this bill was drawn, but it was evidently well considered. This commission has all the work that it can possibly do, and more. I have read, in a cursory way, the report here. We have recognized the necessity by providing for the appointment of two other men.

The commission is given plenary power by this law to make such rules and regulations as are necessary for expediting its business. I read from page 3:

The commission may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any division of the commission, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States.

It has plenary power to make divisions of its members.

Reading from line 16:

The commission is hereby authorized by its order to divide the members thereof into as many divisions as it may deem necessary.

The divisions can not be made except by order of the entire commission. The bill further provides that the decision by a division must be by a majority thereof, necessarily meaning that there shall be at least three members. Now:

The commission may by order direct that any of its work, business, or functions arising under this act, or under any act amendatory thereof, be assigned or referred to any of said divisions for action thereon, and may by order at any time amend, modify, supplement, or rescind any such direction.

There is plenary power to make rules. There is plenary power to divide the commission into divisions. Here is plenary power by the full commission to amend, modify, supplement, or rescind any direction given to any division.

Now, lines 18 and 19:

In conformity with and subject to the order or orders of the commission in the premises—

In the premises—what premises? Of this bill? No; in the premises of the matter about which the order made by it giving the direction to the division or dividing the commission into divisions—

each division so constituted shall have power and authority by a majority thereof to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions—

What? How? By order of the commission, and not otherwise.

I do not know how good a lawyer the Senator may be. I understand he is a great lawyer; but I say this bill is well drawn, and I say that the power is given here as I have stated. The ordinary, reasonable construction of this language indicates it, and it was evidently drawn by somebody who is familiar with the practice down there and familiar with the needs of this commission.

If you are going to provide that upon any rehearing all of this commission must act, you will fix it so that the commission may never in the world get through its business.

In the supreme court of my State there are five judges, and in nearly every case that is decided by the supreme court there is a motion for a rehearing. Especially is this true if the decision is by a divided court, one or two justices dissenting. Under that amendment, if you provide here that there shall be a rehearing at which all the members shall sit, you will require this commission to spend half its time in going over cases for rehearing.

The commission is given plenary power to make rules and regulations. It can not be divided into divisions except by order of the entire commission. It has the power to amend, supplement, modify, or rescind any such direction at any time, and it has the power in the first instance; and there is no jurisdiction given to any division until the entire commission grants the jurisdiction. That is exactly what this bill means.

I dislike to differ from other lawyers in the Senate; but this is so plain, it seems to me, that there is not room for controversy about the meaning of it. I have no doubt but that the commission are fully advised of the provisions of this bill, and most probably approved them before they came in here. They know their needs, and they know the condition. They know their business, and are given power to make rules to direct their work or business by order, to modify, amend, supplement, or rescind any such direction; and no jurisdiction is given to any division but by the order of the whole commission.

The amendment ought not to be adopted; and I object to its being accepted, at least.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. CUMMINS].

Mr. KIRBY. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. LEA of Tennessee. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Hollis	Martine, N. J.	Smith, Ga.
Beckham	Hughes	Nelson	Smith, Md.
Borah	Husting	Newlands	Smith, S. C.
Brandeggee	Johnson, S. Dak.	Norris	Smoot
Catron	Jones	Overman	Sterling
Chamberlain	Kenyon	Page	Stone
Colt	Kern	Penrose	Thomas
Culberson	Kirby	Phelan	Thompson
Cummins	La Follette	Polindexter	Townsend
Curtis	Lee, Tenn.	Pomerene	Vardaman
Dillingham	Lee, Md.	Robinson	Wadsworth
Fall	Lippitt	Shafroth	Warren
Fernald	McCumber	Sheppard	Watson
Fletcher	McLean	Sherman	Williams
Hitchcock	Martin, Va.	Simmons	

Mr. LEA of Tennessee. I have been requested to announce the necessary absence of the senior Senator from Kentucky [Mr. JAMES].

Mr. VARDAMAN. I wish to announce the unavoidable absence of the junior Senator from Tennessee [Mr. SHIELDS], on account of illness.

Mr. OVERMAN. I desire to announce that the junior Senator from Montana [Mr. WALSH] and the junior Senator from Missouri [Mr. REED] are detained on public business.

The PRESIDING OFFICER. Fifty-nine Senators have responded to their names. A quorum is present. The question is on the amendment offered by the Senator from Iowa [Mr. CUMMINS].

Mr. NORRIS. Let it be stated.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. On page 5, after line 8, it is proposed to insert the following:

In all proceedings relating to the reasonableness of rates or to alleged discriminations not less than three members shall sit in the hearing and participate in the decision; and in all hearings relating to the valuation of railway property under the act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, by providing for a valuation of the several classes of property of carriers subject thereto and securing information concerning their stocks, bonds, and other securities," approved March 1, 1913, not less than seven members shall sit in the hearing and participate in the decision.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa [Mr. CUMMINS].

Mr. LA FOLLETTE. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I withhold my vote.

Mr. COLT (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. SAULSBURY]. I transfer that pair to the Senator from Utah [Mr. SUTHERLAND] and vote "yea."

Mr. FALL (when his name was called). I have a general pair with the Senator from West Virginia [Mr. CHILTON]. In his absence I refrain from voting.

Mr. SIMMONS (when his name was called). I transfer my pair as on the former vote and vote "yea."

The roll call was concluded.

Mr. CHAMBERLAIN. I transfer my pair with the Senator from Pennsylvania [Mr. OLIVER] to the junior Senator from Louisiana [Mr. BROUSSARD] and vote "yea."

Mr. O'GORMAN. I have a general pair with the senior Senator from New Hampshire [Mr. GALLINGER], which I transfer to the junior Senator from Illinois [Mr. LEWIS] and vote "yea."

The result was announced—yeas 60, nays 5, as follows:

YEAS—60.

Ashurst	du Pont	La Follette	Norris
Bankhead	Fletcher	Lane	O'Gorman
Beckham	Hardwick	Lee, Md.	Overman
Borah	Hitchcock	Lippitt	Penrose
Brandeggee	Hughes	Lodge	Pomerene
Chamberlain	Husting	McCumber	Ransdell
Clark	James	McLean	Reed
Colt	Johnson, S. Dak.	Martin, Va.	Sheppard
Cummins	Jones	Martine, N. J.	Sherman
Curtis	Kenyon	Nelson	Simmons
Dillingham	Kern	Newlands	Smith, Ga.

Smith, Mich.	Stone	Tillman	Warren
Smith, S. C.	Swanson	Vardaman	Watson
Smoot	Thomas	Wadsworth	Weeks
Sterling	Thompson	Walsh	Williams

NAYS—5.

Hollis	Robinson	Shafroth	Townsend
Kirby			

NOT VOTING—31.

Brady	Fernald	Lewis	Saulsbury
Broussard	Gallinger	Myers	Shields
Bryan	Goff	Oliver	Smith, Ariz.
Catron	Gore	Owen	Smith, Md.
Chilton	Gronna	Page	Sutherland
Clapp	Harding	Phelan	Underwood
Culberson	Johnson, Me.	Pittman	Works
Fall	Lea, Tenn.	Polindexter	

So Mr. CUMMINS's amendment was agreed to.

THE REVENUE.

Mr. SIMMONS. I ask the Senate to proceed to the consideration of the bill (H. R. 20573) to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. NEWLANDS. I will ask the Senator whether it can not be arranged that the pending bill can be proceeded with to a conclusion after this bill is made the order?

Mr. SIMMONS. After the Senate has made it the order I will discuss that with the Senator from Nevada.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 20573) to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes, which had been reported from the Committee on Finance with amendments.

Mr. PENROSE. Will the Senator from North Carolina permit me? I desire to submit a resolution relating to the pending measure which I should like to have read, printed, and lie on the table. It is a short resolution.

The PRESIDING OFFICER. Without objection, it will be read.

Mr. SIMMONS. I wish to ask the Senator from Pennsylvania if he will not be content to state the general purport of the resolution without having it read?

Mr. PENROSE. It will not take a minute to have the resolution read.

Mr. SIMMONS. Very well, I will not object.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read the resolution (S. Res. 367), as follows:

Resolved, That H. R. 20573 be recommitted to the Committee on Finance with instructions to amend the bill so as to raise an equitable portion of the required revenue from a protective tariff "sufficient to protect adequately American industry and American labor, and to be so adjusted as to prevent undue exactions by monopolies or trusts"; and

With further instructions to the Committee on Finance to give special attention to securing the industrial independence of the United States, to the end that "our industries can be so organized that they will become not only a commercial bulwark but a powerful aid to national defense"; and

That the bill be further amended so as to require the tariff commission to report the difference in wages and the cost of production between foreign countries and the United States.

The PRESIDING OFFICER. The Chair understood the Senator from Pennsylvania to request that the resolution should lie on the table.

Mr. PENROSE. I asked to have the resolution read, which has been done, and now I will withhold it until I have an opportunity to address the Senate upon it. Let it lie on the table and be printed.

The PRESIDING OFFICER. That course will be pursued.

Mr. SIMMONS. Mr. President, if I can have order—

The PRESIDING OFFICER. Order, Senators.

Mr. SIMMONS. In response to the inquiry of the Senator from Nevada a few moments ago, I desire to state that if I could have any assurance that the bill which he has in charge—

Mr. PENROSE. Mr. President, no one can hear the Senator on this side.

The PRESIDING OFFICER. Order, Senators.

Mr. SIMMONS. I was stating, in response to the inquiry of the Senator from Nevada made a few moments ago, that if I can have any assurance that the bill which he has had before the Senate this morning will be disposed of in a reasonable time, say, in half an hour, I would not object to going on with that measure and let the revenue bill be laid aside for that length of time.

Mr. NORRIS. Mr. President—

Mr. NEWLANDS. I hope to dispose of it within that time, but I am not informed as to whether any further amendments

are to be offered to the bill. I should like to inquire whether there are any.

Mr. NORRIS. I rose for the purpose of giving some information.

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Nebraska?

Mr. SIMMONS. I yield.

Mr. NORRIS. I wish to say to the Senator from North Carolina that I do not believe the bill can be disposed of in half an hour. I think there will be considerable debate on it. I do not object to the consideration of the bill. I am only giving that information because I feel it my duty to do so, since the inquiry was made by the Senator from North Carolina. I think it will take considerable time—a few hours at least.

Mr. SIMMONS. Mr. President, another Senator said to me this morning that considerable time will be taken in the discussion in addition to that which has already been consumed. Under the circumstances I feel that I can not yield to the wishes of the Senator from Nevada, much as I should like to do so.

Mr. STERLING. Mr. President—

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from South Dakota?

Mr. SIMMONS. I yield to the Senator.

Mr. STERLING. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. Does the Senator desire to have it read?

Mr. STERLING. I desire to have it read.

The PRESIDING OFFICER. It will be read, without objection.

The SECRETARY. On page 4, line 24, after the word "shall"—

The PRESIDING OFFICER. The Secretary informs the Chair that there is no such word in the line.

Mr. BRANDEGEE. To which bill is the Senator offering the amendment?

Mr. STERLING. House bill 308, the bill we have been considering, and which I understand is the bill before the Senate at the present time.

The PRESIDING OFFICER. The Chair will inform the Senator that that bill was displaced.

Mr. STERLING. I thought that was the measure before the Senate now. The Senator from Nevada was insisting on going on with the bill.

The PRESIDING OFFICER. House bill 20573, the revenue bill, is before the Senate.

Mr. NEWLANDS. I wish to ask the Senator from North Carolina whether he will yield to me to make a motion that House bill 308, regarding the enlargement of the Interstate Commerce Commission, be made the special order for 8 o'clock this evening?

Mr. SIMMONS. Mr. President, I can not yield to the Senator for that purpose.

The PRESIDING OFFICER. The Senator from North Carolina declines to yield for that purpose.

Mr. SIMMONS. I hope to go on with the revenue bill to-night.

Mr. STERLING. Mr. President—

The PRESIDING OFFICER. Will the Senator from North Carolina yield to the Senator from South Dakota?

Mr. SIMMONS. I yield.

Mr. STERLING. I ask the Senator from North Carolina if he will yield and permit me to offer this amendment that it may be printed and lie on the table?

Mr. SIMMONS. I have no objection to yielding. I hope the Senator will not ask that it be read.

Mr. STERLING. I will not.

Mr. LEA of Tennessee. I ask the Senator to yield to me that I may offer an amendment and have it printed and lie on the table.

Mr. SIMMONS. I have no objection.

The PRESIDING OFFICER. Without objection, the amendments will lie on the table and be printed.

Mr. LEA of Tennessee. It is an amendment to House bill 308.

Mr. NEWLANDS. I will ask the Senator from North Carolina whether he will yield to me to make a motion to make House bill 308 the special order for Thursday evening at 8 o'clock?

The PRESIDING OFFICER. Will the Senator from North Carolina yield for that purpose?

Mr. SIMMONS. As I stated, I desire to continue the consideration of this bill until it is finished, and I shall ask for night sessions until we have finished the bill. I hope we may finish the bill before the time mentioned by the Senator from Nevada, but that is not at all certain. I ask the Senator to withhold his

motion now. It may be that we will be able to accommodate him by some compromise arrangement.

The PRESIDING OFFICER. The Senator from North Carolina declines to yield for that purpose.

Mr. SIMMONS. Mr. President, before beginning the statement I desire to make I wish to give notice to the Senate that I shall insist upon night sessions until this bill has been finally disposed of.

Mr. STONE. Let me understand the request of the Senator.

Mr. SIMMONS. I am not going to make a motion now.

Mr. PENROSE. Mr. President, I insist on Senators addressing the Senate so that the minority may hear what is going on. I rise to a question of privilege. The minority have been totally ignored in the preparation of this bill, and colloquies have been conducted by the majority Members in an inaudible tone, the minority sitting here utterly unable to hear the conversation of majority Members.

The PRESIDING OFFICER. The Chair appeals to the Senate to be in order.

Mr. PENROSE. We are entitled to hear what is going on.

Mr. SIMMONS. I am exceedingly sorry the Senator from Pennsylvania has so much difficulty about hearing. I believe that a majority practically of Senators have heard substantially what I have said. The Senator from Missouri [Mr. STONE] simply asked me a question in a low tone of voice which was probably not heard. I answered the Senator by saying that I had made no motion, but merely notified the Senate that I would ask to have the bill considered continuously and for that purpose I would ask for night sessions.

Mr. STONE. In this connection I desire to say that, while I am in entire sympathy with what the Senator from North Carolina has said, I will ask at an early date this week that the bill providing for a government for the Danish West India Islands may be disposed of. I am sure it will not take longer time than to read it and vote upon it. I shall have to insist that my friend from North Carolina will make a gap, a little time somewhere soon, so that that bill may be taken up. It is simply out of the question that those islands should be taken over as they will be very soon and leave thirty-odd thousand people upon the islands without any government at all.

Mr. SIMMONS. I shall do everything I can to assist the Senator from Missouri in passing the bill he has in charge. It is an important measure and one that ought to be acted upon.

Mr. NORRIS. Mr. President—

The PRESIDING OFFICER. Will the Senator from North Carolina yield to the Senator from Nebraska?

Mr. SIMMONS. I do.

Mr. NORRIS. In order that Senators may know about meeting here, I wish to ask the Senator in connection with the statement that he is going to have the Senate hold night sessions, does he intend to take a recess for dinner or are we going to be held in continuous session until some hour in the evening?

Mr. SIMMONS. I think we ought to follow the usual custom, especially at the beginning of the consideration of the bill, and take a recess for a couple of hours.

Mr. NORRIS. Some time about 6 o'clock?

Mr. SIMMONS. From about 6 o'clock until 8 o'clock.

Mr. CURTIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Kansas?

Mr. SIMMONS. I do.

Mr. CURTIS. I desire to ask the Senator if it is his purpose to ask for anything more than debate at night sessions, or does he expect that the Senate shall vote upon amendments?

Mr. SIMMONS. I assume that we shall have, first, general debate, and then we will begin the consideration of amendments. I think we will not want to take up the amendments for some little time.

Mr. BRANDEGEE. Mr. President—

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Connecticut?

Mr. SIMMONS. I do.

Mr. BRANDEGEE. In line with the remarks of the Senator from Nebraska [Mr. NORRIS], could the Senator now make a suggestion about the time we will take a recess this afternoon and what time we will convene this evening and how long we will sit?

Mr. SIMMONS. I have just stated that I thought we would follow the usual custom and take a recess from 6 o'clock until 8 o'clock.

Mr. BRANDEGEE. And then sit until 11 o'clock?

Mr. SIMMONS. I think probably that would be a good hour. I do not desire at this stage to suggest any particular hour.

Mr. BRANDEGEE. Very well.

Mr. PENROSE. Mr. President—
The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Pennsylvania?

Mr. SIMMONS. I do.

Mr. PENROSE. I should like to inquire of the chairman of the committee whether it is his purpose now to address the Senate on the bill?

Mr. SIMMONS. Yes; it is my purpose to make an explanation of it.

Mr. PENROSE. Could we not approach the subject with greater lucidity and fuller information if the bill was first read?

Mr. SIMMONS. I think that is unnecessary, and I hope the Senator will not insist upon it.

Mr. PENROSE. The direct-tax bill was read last summer. It seems to me in a measure of such importance and great moment it is only decent and orderly to have the bill read.

Mr. BRANDEGEE. And appear in the RECORD.

Mr. PENROSE. And it ought to be in the RECORD.

Mr. SIMMONS. Will the Senator pardon me? The Senator is the ranking member of the minority, and if the Senator makes the request that the bill be read before I make my statement I shall not make any objection.

Mr. PENROSE. I certainly think that before debating the measure or perhaps voting on it it would be well to see what we are discussing. The reading can only be waived by unanimous consent. People all over the United States, the business interests, are bitterly opposed to this measure, and for us to quietly sit here and have this discussion go on without having the bill read is a gross violation of the proprieties. I ask that the bill be read.

Mr. SIMMONS. I did not, of course, yield to the Senator for a speech, and I think the statement that in proceeding to the consideration of the bill that an initial statement as to its general scope and purpose without having the bill read is a gross impropriety is a gratuitous statement. On the contrary, we all know that that is the constant practice of the Senate with reference to the most important bills that come before the Senate. A request is constantly made that the formal reading of a bill be dispensed with, and that we proceed to its consideration. But, as I said, if the ranking member of the minority, the Senator from Pennsylvania, desires to have the bill read, I shall interpose no objection.

The PRESIDING OFFICER. Does the Senator from Pennsylvania make the request?

Mr. BRANDEGEE. Mr. President, when the Senate votes to proceed to the consideration of a bill the next thing in order is to have it read. The reading is only dispensed with by unanimous consent when a Senator moving to proceed to its consideration asks unanimous consent that the formal reading of the bill be dispensed with. That request has not been preferred, and the regular order is to have the bill read.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

Mr. SIMMONS. I have not begun to discuss the bill, but before I began to explain it I was going to make that request. I had not reached that stage.

Mr. BRANDEGEE. If the Senator should make the request, I would object to it. I demand the reading of the bill.

The PRESIDING OFFICER. The Chair believes that the reading of the bill is in order, and the Secretary will read it.

The Secretary read the bill, as follows:

Be it enacted, etc.,

TITLE I.—SPECIAL PREPAREDNESS FUND.

SECTION 1. That the receipts from the tax imposed by Title II and one-third of the receipts from the tax imposed by Title III of this act shall constitute a separate fund in the Treasury to be used only for the expenditures incurred under the act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916; the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916; and the act entitled "An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes," approved July 6, 1916, or any other act or acts subsequent thereto making appropriations for Army, Navy, or fortification purposes. In addition to such receipts from the taxes imposed under Titles II and III of this act, there shall be credited annually, beginning with the fiscal year ending June 30, 1918, to such separate fund, the sum of \$175,000,000, such sum being the estimated additional revenue to be derived under the act entitled "An act to increase the revenue, and for other purposes," approved September 8, 1916, in excess of the revenue to be derived under then existing laws: *Provided*, That the Secretary of the Treasury may use such fund for other purposes, but such fund shall be reimbursed for any portion thereof so used.

TITLE II.—EXCESS PROFITS TAX.

SEC. 200. That when used in this title—

The term "corporation" includes joint-stock companies or associations, and insurance companies;

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia; and

The term "taxable year" means the 12 months ending December 31, except in the case of a corporation or partnership allowed to fix its own fiscal year, in which case it means such fiscal year. The first taxable year shall be the year ending December 31, 1917.

SEC. 201. That in addition to the taxes under existing laws there shall be levied, assessed, collected, and paid for each taxable year upon the net income of every corporation and partnership organized, authorized, or existing under the laws of the United States, or of any State, Territory, or District thereof, no matter how created, or organized, excepting income derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, a tax of 8 per cent of the amount by which such net income exceeds the sum of (a) \$5,000 and (b) 8 per cent of the actual capital invested.

Every foreign corporation and partnership, including corporations and partnerships of the Philippine Islands and Porto Rico, shall pay for each taxable year a like tax upon the amount by which its net income received from all sources within the United States exceeds the sum of (a) 8 per cent of the actual capital invested and used or employed in the business in the United States, and (b) that proportion of \$5,000 which the entire actual capital invested and used or employed in the business in the United States bears to the entire actual capital invested; and in case no such capital is used or employed in the business in the United States the tax shall be imposed upon that portion of such net income which is in excess of the sum of (a) 8 per cent of that proportion of the entire actual capital invested and used or employed in the business which the net income from sources within the United States bears to the entire net income, and (b) that proportion of \$5,000 which the net income from sources within the United States bears to the entire net income.

SEC. 202. That for the purpose of this title actual capital invested means (1) actual cash paid in, (2) the actual cash value at the time of payment of assets other than cash paid in, and (3) paid in or earned surplus and undivided profits used or employed in the business, but does not include money or other property borrowed by the corporation or partnership.

SEC. 203. That the tax herein imposed upon corporations and partnerships shall be computed upon the basis of the net income shown by their income-tax returns under Title I of the act entitled "An act to increase the revenue, and for other purposes," approved September 8, 1916, or under this title, and shall be assessed and collected at the same time and in the same manner as the income tax due under Title I of such act of September 8, 1916: *Provided*, That for the purpose of this title a partnership shall have the same privilege with reference to fixing its fiscal year as is accorded corporations under section 13 (a) of Title I of such act of September 8, 1916: *And provided further*, That where a corporation or partnership makes return prior to March 1, 1918, covering its own fiscal year and includes therein any income received during the calendar year ending December 31, 1916, the tax herein imposed shall be that proportion of the tax based upon such full fiscal year which the time from January 1, 1917, to the end of such fiscal year bears to the full fiscal year.

SEC. 204. That corporations exempt from tax under the provisions of section 11 of Title I of the act approved September 8, 1916, and partnerships carrying on or doing the same business shall be exempt from the provisions of this title, and the tax imposed by this title shall not attach to incomes of partnerships derived from agriculture or from personal services.

SEC. 205. That every corporation having a net income of \$5,000 or more for the taxable year making a return under Title I of such act of September 8, 1916, shall for the purposes of this title include in such return a detailed statement of the actual capital invested.

Every partnership having a net income of \$5,000 or more for the taxable year shall render a correct return of the income of the partnership for the taxable year, setting forth specifically the actual capital invested and the gross income for such year and the deductions hereinafter allowed. Such returns shall be rendered at the same time and in the same manner and form as is prescribed for income-tax returns under Title I of such act of September 8, 1916. In computing net income of a partnership for the purposes of this title there shall be allowed like deductions as are allowed to individuals in sections 5 (a) and 6 (a) of such act of September 8, 1916.

SEC. 206. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this title are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed, and all provisions of Title I of such act of September 8, 1916, relating to returns and payment of the tax therein imposed, including penalties, are hereby made applicable to the tax required by this title.

SEC. 207. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all necessary regulations for carrying out the provisions of this title, and may require any corporation or partnership subject to the provisions of this title to furnish him with such facts, data, and information as in his judgment are necessary to collect the tax provided for in this title.

TITLE III.—ESTATE TAX.

SEC. 300. That section 201, Title II, of the act entitled "An act to increase the revenue, and for other purposes," approved September 8, 1916, be, and the same is hereby, amended to read as follows:

"SEC. 201. That a tax (hereinafter in this title referred to as the tax), equal to the following percentages of the value of the net estate, to be determined as provided in section 203, is hereby imposed upon the transfer of the net estate of every decedent dying after the passage of this act, whether a resident or nonresident of the United States:

"One and one-half per centum of the amount of such net estate not in excess of \$50,000;

"Three per cent of the amount by which such net estate exceeds \$50,000 and does not exceed \$150,000;

"Four and one-half per cent of the amount by which such net estate exceeds \$150,000 and does not exceed \$250,000;

"Six per cent of the amount by which such net estate exceeds \$250,000 and does not exceed \$450,000;

"Seven and one-half per cent of the amount by which such net estate exceeds \$450,000 and does not exceed \$1,000,000;

"Nine per cent of the amount by which such net estate exceeds \$1,000,000 and does not exceed \$2,000,000;

"Ten and one-half per cent of the amount by which such net estate exceeds \$2,000,000 and does not exceed \$5,000,000; .

"Twelve per cent of the amount by which such net estate exceeds \$3,000,000 and does not exceed \$4,000,000;

"Thirteen and one-half per cent of the amount by which such net estate exceeds \$4,000,000 and does not exceed \$5,000,000; and

"Fifteen per cent of the amount by which such net estate exceeds \$5,000,000."

Sec. 301. That the tax on the transfer of the net estate of decedents dying between September 8, 1916, and the passage of this act shall be computed at the rates originally prescribed in the act approved September 8, 1916.

TITLE IV.—MISCELLANEOUS.

Sec. 400. That the Secretary of the Treasury is hereby authorized to borrow on the credit of the United States from time to time such sums as in his judgment may be required to meet public expenditures on account of the Mexican situation, the construction of the armor-plate plant, the construction of the Alaskan Railway, and the purchase of the Danish West Indies, or to reimburse the Treasury for such expenditures, and to prepare and issue therefor bonds of the United States not exceeding in the aggregate \$100,000,000, in such form as he may prescribe, bearing interest payable quarterly at a rate not exceeding 3 per cent per annum; and such bonds shall be payable, principal and interest, in United States gold coin of the present standard of value, and both principal and interest shall be exempt from all taxes or duties of the United States as well as from taxation in any form by or under State, municipal, or local authority, and shall not be receivable by the Treasurer of the United States as security for the issue of circulating notes to national banks: *Provided*, That such bonds may be disposed of by the Secretary of the Treasury at not less than par, under such regulations as he may prescribe, giving all citizens of the United States an equal opportunity therefor, but no commissions shall be allowed or paid thereon; and a sum not exceeding one-tenth of 1 per cent of the amount of the bonds herein authorized is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of preparing, advertising, and issuing the same: *And provided further*, That in addition to such issue of bonds, the Secretary of the Treasury may prepare and issue for the purposes specified in this section any portion of the bonds of the United States now available for issue under authority of section 39 of the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909: *And provided further*, That the issue of bonds under authority of this act and any Panama Canal bonds hereafter issued under authority of section 39 of the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, shall be made redeemable and payable at such times within 50 years after the date of their issue as the Secretary of the Treasury, in his discretion, may deem advisable.

CERTIFICATES OF INDEBTEDNESS.

Sec. 401. That section 32 of an act entitled "An act providing ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, as amended by section 40 of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, be, and the same is hereby, amended to read as follows:

"Sec. 32. That the Secretary of the Treasury is authorized to borrow, from time to time, at a rate of interest not exceeding 3 per cent per annum, such sum or sums as, in his judgment, may be necessary to meet public expenditures, and to issue therefor certificates of indebtedness in such form and in such denominations as he may prescribe; and each certificate so issued shall be payable, with the interest accrued thereon, at such time, not exceeding one year from the date of its issue, as the Secretary of the Treasury may prescribe: *Provided*, That the sum of such certificates outstanding shall at no time exceed \$300,000,000, and the provisions of existing law respecting counterfeiting and other fraudulent practices are hereby extended to the bonds and certificates of indebtedness authorized by this act."

RETURNS OF DIVIDENDS.

Sec. 402. That Title I of the act entitled "An act to increase the revenue, and for other purposes," approved September 8, 1916, be amended by adding to Part III a new section, as follows:

"Sec. 26. Every corporation, joint-stock company or association, or insurance company subject to the tax herein imposed, when required by the Commissioner of Internal Revenue, shall render a correct return, duly verified under oath, of its payments of dividends, whether made in cash or its equivalent or in stock, including the names and addresses of stockholders and the number of shares owned by each, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

AMENDMENT OF BANKRUPTCY LAW.

During the reading of the revenue bill,

Mr. O'GORMAN. Mr. President, out of order, I desire to report from the Committee on the Judiciary the bill (H. R. 12195) to amend section 17 of the United States bankruptcy law of July 1, 1898, and amendments thereto of February 5, 1903. The bill proposes an amendment to the bankruptcy law by which a bankrupt may not be relieved from his liabilities under any judgment rendered against him in a breach of promise action accompanied by seduction. The bill has the unanimous support of the committee, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York for the present consideration of the bill?

Mr. JONES. Mr. President, the bill should first be read before consent is given for its consideration.

The PRESIDING OFFICER. The Secretary will read the bill.

The SECRETARY. A bill (H. R. 12195) to amend section 17 of the United States bankruptcy law of July 1, 1898, and amendments thereto, of February 5, 1903.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. JONES. The bill has not yet been read.

The PRESIDING OFFICER. Does the Senator from Washington desire to have the bill read at length?

Mr. JONES. Yes.

The PRESIDING OFFICER. The Secretary will read the bill. The Secretary proceeded to read the bill.

Mr. SIMMONS. Mr. President, I do not understand what permission the Senator from New York has received for the consideration of the bill.

Mr. THOMAS. He had unanimous consent.

Mr. O'GORMAN. The consideration of the bill will not take a moment. I followed the precedent which was set by my friend the Senator from Alabama [Mr. UNDERWOOD].

Mr. SIMMONS. No; the Senator from Alabama simply asked to introduce a bill; and I thought that was all the Senator from New York desired to do.

Mr. O'GORMAN. This bill will only take half a minute. There is no objection to it.

Mr. SIMMONS. I shall not yield any further for such a purpose. I misunderstood the request of the Senator from New York.

The PRESIDING OFFICER. The Chair put the request for unanimous consent.

The Secretary resumed the reading of the bill.

Mr. JONES. The Chair does not understand that the Senate has yet given unanimous consent for the consideration of the measure?

The PRESIDING OFFICER. No; the Secretary is simply reading the bill.

Mr. JONES. I ask that the bill may be read before unanimous consent is given for its consideration.

The PRESIDING OFFICER. The Secretary will resume the reading of the bill.

The Secretary resumed and concluded the reading of the bill, which is as follows:

Be it enacted, etc., That section 17 of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended February 5, 1903, be amended so as hereafter to read as follows:

"Sec. 17. Debts not affected by a discharge: A discharge in bankruptcy shall release a bankrupt from all of his provable debts, except such as (1) are due as a tax levied by the United States, the State, county, district, or municipality in which he resides; (2) are liabilities for obtaining property by false pretenses or false representations, or for willful and malicious injuries to the person or property of another, or for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female, or for breach of promise of marriage accompanied by seduction, or for criminal conversation; (3) have not been duly scheduled in time for proof and allowance, with the name of the creditor if known to the bankrupt, unless such creditor had notice or actual knowledge of the proceedings in bankruptcy; or (4) were created by his fraud, embezzlement, misappropriation, or defalcation while acting as an officer or in any fiduciary capacity."

The PRESIDING OFFICER. If objection is made to the consideration of the bill, it will be placed on the calendar.

Mr. BRANDEGEE. I ask unanimous consent that the Senator from New York may have leave to withdraw the report.

Mr. O'GORMAN. I will withdraw the report if objection is going to be made to the consideration of the bill; but I think it would only take a minute of the time of the Senate to act upon it.

Mr. SIMMONS. The Senator may proceed with the bill. I will withdraw my objection to its consideration.

The PRESIDING OFFICER. Is there objection to withdrawing the report?

Mr. BRANDEGEE. The Senator from North Carolina has withdrawn his objection to the consideration of the bill.

The PRESIDING OFFICER. Does the Senator from North Carolina withdraw his objection to the consideration of the bill?

Mr. SIMMONS. If it will only take one minute, I will withdraw my objection.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. SIMMONS. I shall not object, if it does not lead to any debate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 20573) to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes.

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). The reading of the bill has been concluded.

Mr. SIMMONS obtained the floor.

Mr. KENYON. Mr. President, if the Senator from North Carolina is going to discuss the bill, I think there should be a quorum present; and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	Overman	Smith, S. C.
Beckham	Hardwick	Page	Smoot
Borah	Hughes	Penrose	Sterling
Brady	Husting	Pittman	Stone
Brandeggee	James	Poinexter	Thomas
Catron	Johnson, Mr.	Pomerene	Thompson
Chamberlain	Jones	Ransdell	Townsend
Clapp	Kenyon	Reed	Underwood
Clark	Len, Tenn.	Sharfrod	Wadsworth
Culberson	Lewis	Sheppard	Watson
Cummins	Martine, N. J.	Sherman	Weeks
Fernald	Myers	Simmons	
Fletcher	Norris	Smith, Ga.	

The PRESIDING OFFICER. Fifty-one Senators having answered to their names, a quorum of the Senate is present.

Mr. SIMMONS. Mr. President, I shall content myself with a brief statement—at least, I hope it will be brief—of the general scope and purposes of this bill and an explanation of the amendments which have been made to it by the Committee on Finance.

The estimated expenditures for the years 1917 and 1918 for the Army, the Navy, and fortifications exceed the expenditures for the last normal year—that is, the year before we entered upon this program of preparedness—by the enormous sum of \$860,000,000. That is, an average increase in expenditures during these two years on account of this program for these purposes of \$430,000,000. The appropriations, adding to the normal expenditures of the Government these enormous sums of money, were made in response to a popular sentiment, which found expression in Congress by a vote in both Houses approaching the point of unanimity. They have since been approved by the people of the country in the general election which followed their enactment. They are for the purpose of preparing the country for defense, not only against invasion, but for defense in case its rights are disregarded and violated, either upon sea or land.

In these circumstances the House, in framing this bill, decided that the Government should set aside a special fund for the payment of these increased expenses. In pursuance of that there is written in the bill a provision that all the additional revenues accruing to the Government from the adoption of this bill, estimated to amount in the aggregate to about \$248,000,000, and all of the additional revenues accruing to the Government from the so-called emergency act of September, 1916, estimated to amount to about \$175,000,000, making together \$423,000,000 as the total amount that will accrue to the Government from all of our so-called emergency legislation—for the emergency legislation of the previous Congress, at least that part of it which did not expire by limitation or was not repealed, was brought forward in the revenue act of 1916—should be segregated from the balance of the funds in the Treasury, and set apart as a fund to be applied to the payment of the expenses incident to the Army, the Navy, and fortifications. It is true that there is a provision that in cases of emergency the Secretary of the Treasury may use this fund temporarily for other purposes; this is accompanied, however, with the requirement that so much of it as is so used shall be reimbursed from the general fund in the Treasury so as to keep this preparedness fund intact.

But for these extraordinary expenses during the present fiscal year and the fiscal year 1918, there would be sufficient revenues from the current receipts of the Government to pay ordinary expenses.

To illustrate: In the fiscal year 1917 the additional expenditures on account of the Army, Navy, and fortifications were estimated at \$329,000,000, including the expenses of the Mexican situation. To meet that we expended from the receipts to be received from the last emergency bill \$175,000,000. We did not then make any provision for the Mexican situation. It was stated in the report of the committee upon that bill that it was not the purpose to provide therein for the Mexican situation, but that it was the expectation that those expenses would be financed by the issuance of Panama Canal bonds.

The Secretary has not issued those bonds, but has paid the entire expenses up to this time from funds in the Treasury, and will so continue to do until the end of the fiscal year. As a result of the payment of these expenses in that way, an estimated excess of disbursements over receipts for the year will exist on the 30th day of June, 1917, of \$157,000,000. We have in this bill authorized the Secretary—we did not authorize him before because we thought he already had the authority, but in this bill

we give him express authority—to issue enough of these bonds to cover this expenditure, estimated to amount, by the end of this fiscal year, to \$162,000,000, so that when those bonds are sold and the money received therefrom is covered into the Treasury it is apparent that it will pay off and discharge the estimated deficit of \$157,000,000 so expended, and add about \$5,000,000 to the Treasury balance.

It is estimated that the expenditures on account of the Army and Navy and fortifications for the fiscal year 1918 will reach \$530,000,000, or a little over \$200,000,000 more than the estimated expenditures for these purposes during the present fiscal year. This amount will exceed the amount that we propose to set aside for preparedness, the amount to be realized from all the emergency-revenue bills—to wit, the one at present under consideration and the one of 1916—by about \$107,000,000. The estimated excess of disbursements over receipts for the year 1918 is \$366,000,000. At least, that was the estimate at the time the report upon the House bill was made. There have been some deficiency estimates made since then which will run it up somewhat, but according to that estimate the deficiency will be \$366,000,000. So that it is apparent from this statement that but for these extraordinary expenditures imposed upon us as the result of this program to which the country has so heartily agreed, and which it has so strongly indorsed, there would be in the Treasury, exclusive of the total amount which will accrue from this bill and from the emergency act of 1916, ample funds to meet the expenses of the Government.

Mr. WATSON. Mr. President—

The PRESIDING OFFICER (Mr. LEA of Tennessee in the chair). Does the Senator from North Carolina yield to the Senator from Indiana?

Mr. SIMMONS. Yes.

Mr. WATSON. Will it interfere with the Senator if I ask him to state at this point how much revenue was raised under the special act of September 8, 1916, and what became of that revenue? I am asking for my own information.

Mr. SIMMONS. I just stated to the Senate that for the year 1917 that amount was estimated at about \$175,000,000, and it is to be used, of course, to defray this additional expense. Probably I did not catch the Senator's question. I will ask him to repeat it.

Mr. WATSON. The question was, How much revenue was produced by, or raised under, the provisions of the act of September 8, 1916, and what disposition was made of that revenue?

Mr. SIMMONS. I stated that the amount was estimated to be \$175,000,000.

Mr. WATSON. All told?

Mr. SIMMONS. Yes; under that act. That is a little less than we estimated at the time of the passage of the act, but that is the amount it is now estimated, in the light of further experience, it will yield.

Mr. WATSON. And the revenue produced then was practically the same as estimated?

Mr. SIMMONS. No; it will not be quite as much as was estimated at the time the bill passed.

Mr. WATSON. And that special tax was levied at that time for Army and Navy preparedness, was it not?

Mr. SIMMONS. Yes; and I stated a few minutes ago that after that amount is applied to that purpose we will lack \$157,000,000, or about that, of paying off and discharging the increased appropriations for that year for Army, Navy, and fortifications. That additional amount was to be paid out of bonds. The bonds have never been issued, but the amount has been or will be paid out of the current revenues of the Government; and we are now proposing in this bill to authorize the Secretary of the Treasury to sell Panama Canal bonds and reimburse the Treasury for that \$162,000,000 spent or to be spent during the current fiscal year on account of the Mexican situation. When that is done, and that fund goes into the Treasury for the purpose of reimbursing it, it will wipe out the estimated deficit for the year 1917, and leave a small surplus.

Mr. PENROSE. Mr. President, will the Senator yield to me? If the Senator objects to an inquiry, I will wait until he gets through.

Mr. SIMMONS. I will state to the Senator that I would greatly appreciate it if he would let me go on and conclude my remarks.

Mr. PENROSE. I understood, in conversation with the Senator in the rear of the Chamber a little while ago, that he expected inquiries, and was willing that they should be made.

Mr. SIMMONS. I think if I should yield to interruptions it would take a very long time for me to conclude. It is not my purpose to engage in any partisan discussion. I simply want

to explain the bill; and while, of course, I shall not object to interruptions, I should like it better if I were permitted to proceed.

Mr. PENROSE. I hope the Senator will not suspect me of rising to address an inquiry to him because I wanted to get into a partisan discussion.

Mr. SIMMONS. No; I certainly would absolve the Senator from Pennsylvania of any purpose in that direction.

Mr. PENROSE. I think the Senator would not suspect me of that.

Mr. SIMMONS. Now, Mr. President, the bill has two general provisions imposing taxes. One is in reference to inheritance taxes. The proposition is simply to increase the rates of the present law 50 per cent. The second provision imposing taxes is that which relates to taxes upon excess profits. Speaking generally, this provision imposes upon corporations and co-partnerships a tax of 8 per cent upon their net profits in excess of \$5,000 plus 8 per cent of their invested capital. In estimating the net income for the purposes of this tax the bill provides that the return made under the income-tax law in that year shall be accepted as the basis of assessing the tax against that income. That makes, of course, the application of that part of the law very easy.

But there is another side to the problem, and that is one which grows out of the exemption of 8 per cent. In order to ascertain what that exemption is it is necessary to fix a basis for calculating it. The bill fixes that basis by taking the capital actually invested in the business. To make it clear what is meant by those general terms, the bill undertakes to define the meaning of the words "capital actually invested in the business." It defines those terms to mean, first, "actual cash paid in"; second, as amended by the committee, "actual cash value of assets other than cash at the time such assets were transferred to the corporation or partnership"; and, third, "paid-in or earned surplus and undivided profits used or employed in the business; but does not include money or other property borrowed by the corporation or partnership, whether evidenced by bonds or otherwise."

The chief controversy made by the representatives of the corporations who appeared before your committee in opposition to this tax was with reference to the language in subdivision 2 of section 202. Some of them insisted that the correct rule would be the cash value of the property at the time of the return of income for taxation, instead of at the time the property was turned over as a part of the assets of the corporation. Of course, it is to their interest to increase the amount of the exemption, and they insisted that the basis of such exemption should be the value at the time of the return, the effect of which clearly would be to give them the benefit of the unearned increment, of good will, and so forth.

Your committee adopted the basis recommended by it because they thought it would place every taxpayer upon the same basis. That is, it would allow to each taxpayer an amount estimated in cash equal to the actual investment in the business. This puts every taxpayer upon a standard of parity in estimating the invested capital. It is contended that the rule, the exemption, and the tax imposed is arbitrary. That may be. Most taxation is imposed upon lines that are more or less arbitrary. The Government needs a certain amount of money; it must be raised by taxation. It has the right to determine the way in which it shall be raised. It should be fair as between the class upon which it is imposed. Subject to that qualification, the standard may be arbitrary, and frequently is, and yet be just. When we allow an 8 per cent exemption, that is an arbitrary amount. We might have made it 6; we might have made it 10; but we had in view the purpose of the legislation, and in exercising this arbitrary right we fixed it at 8 per cent based upon the theory that 8 per cent is a good profit in any business.

In presenting the rate of the tax we arbitrarily placed it at 8 per cent. We might have fixed it at 10. There were suggestions that we make it that much. In some countries of Europe it is 10, in some 25, in some as high as 60 per cent. There is no certain criterion in respect to that. It is a matter that must be arbitrarily settled by the taxing power.

The same is true as to the time of valuation of property transferred to the business. It is competent for the Government to provide that the valuation should be at the time of the transfer or at the time of the return for taxation. This question may justly be settled upon consideration of the amount of tax which is to be realized and fairness and equity between the class upon which the tax is to be imposed.

Your committee decided, in the circumstances, that the interest of the Government and equality between the taxpayers required that the exemption should be based upon the cash

value of the property at the time of investment instead of at the time of return for taxation.

It is clear if you make the valuation at the time of the return, inequalities between taxpayers would arise which do not exist under the rule adopted. The rule adopted secures equality as between the taxpayers with reference in the exemption. Every taxpayer will get an exemption upon the same basis, namely, the amount he actually invested, measured in cash at the time it was invested.

If we should adopt the other basis and take the valuation at the time of the return, the unearned increment of property, and the earning capacity of the concern would be capitalized annually and be reflected in each return for taxation.

The unearned increment of real property would be very great in a place like New York, while it would be very small in many prosperous but smaller places.

The earning capacity, which is reflected in the market value of the property, depends largely upon the nature of the business, upon good will, trade-marks, patents, and so forth. At the present time the earning capacity of certain concerns, like the powder factories, is very great, while for other concerns it is very small.

Under the basis as recommended, the standard for measuring the capital invested is a fixed and unchangeable one; under the basis as suggested, the standard would be a varying one, changing with every season and with every change in conditions.

Your committee believes that with the amendment proposed to section 202 of the House bill the definition therein made of actual capital invested will furnish a just and equitable basis of computation as between the taxpayer, and will secure to the Government the income sought to be derived from this source without making it necessary to increase the tax beyond 8 per cent upon net profits.

Another objection urged to the bill as it came from the House was on account of the exemption allowed in that bill in favor of partnerships engaged in agriculture. It was claimed that if partnerships engaged in other business were taxed, they should be taxed when engaged in agriculture.

Again while the House bill exempted partnerships it did not exempt corporations engaged in agriculture. This likewise was objected to and it was contended that if partnerships engaged in agriculture were exempted corporations likewise engaged should be exempted.

On the other hand, it was contended that to exempt either corporations or partnerships so engaged, would be a discrimination against those in other business. It was contended that in certain sections of the country both corporations and partnerships, owning immense tracts of land, supplied with great capital, engaged in the production of food animals, growing cotton, sugar, wheat, and general farm products, making tremendous profits, in some cases equal to that of many of our great industrial corporations, would be relieved of all taxes.

After consideration of these and other suggestions to the same general import, your committee decided to recommend an amendment to the House bill making both partnerships and corporations engaged in agriculture, subject to the tax imposed upon other combinations.

Your committee continued the exemption under section 204 of the House bill as it applied to incomes derived from personal service with the amendment that it should apply to corporations as well as partnerships, and only when that income is derived exclusively from personal service.

I think that reasonably meets the objection made on that score.

It was also objected, and probably the objection was urged more strenuously than any other, that the exemption of individuals from this tax is unduly and unjustly discriminative against corporations and co-partnerships. Upon its face this proposition would appear to be sound, and, speaking broadly and generally, it probably would be but for the fact that the income tax imposed upon individuals is far greater than that imposed upon corporations, while partnerships pay no tax under that law. The corporation pays an income tax of only 2 per cent. It starts at 2 per cent and it ends at 2 per cent; it does not increase. On the other hand, the individual pays an income tax of 2 per cent upon his entire net income, plus a graduated surtax upon all income above \$20,000, reaching by the time his income has risen to the \$2,000,000 mark a flat 13 per cent, in addition to the normal tax of 2 per cent. If an individual receives an income from a corporation which has paid the 2 per cent tax and his income exceeds \$20,000, that excess also is subject to this graduated tax.

If you apply the income-tax law to the individual, and then apply the same law to the corporations, adding the excess-profit tax, you will find that the amount actually paid by the

individual is very little less than that which would be paid by the corporation, the one subject to the excess profits tax and the other not. And the same is true as between the individual and a partnership. If, on the other hand, you add an excess profits tax to the income tax of the individual you will find, as I have found from certain calculations made me by the Actuary of the Treasury Department, that the result will be a gross discrimination against the individual, and that he would pay a larger sum than would the corporations or partnerships.

Mr. POMERENE. May I ask the Senator a question?

Mr. SIMMONS. Yes.

Mr. POMERENE. Does the Senator mean by that, adding the excess profits tax to the supertax as applied to individuals?

Mr. SIMMONS. I mean if you apply the excess profits tax to the individual as well as to a corporation.

Mr. POMERENE. And also the supertax?

Mr. SIMMONS. Oh, certainly.

Mr. President, I wish to put in the RECORD as a part of my statement a computation made by the Actuary of the Treasury at my request. It is a comparison of the total amount of taxes to be paid to the Government from the net profits of a certain business when conducted as a corporation, a copartnership, or as an individual, said taxes to include all Federal taxes to be paid by the concern or by the members of the same out of profits derived therefrom. It includes all the taxes that are to be paid.

For this purpose he used the same capital, the same net income, as to the corporation, copartnership, and individual. He took a corporation with an assumed actual invested capital of \$1,000,000, with an assumed net income of \$200,000. The corporation excise tax of 50 cents on each \$1,000 of market value of capital, assumed to be \$1,500,000, will amount to \$750. The income tax is 2 per cent, or \$3,985. We have as the result, net income of \$195,265; under the provision of the excess profits tax there is exempt in the case of corporations \$5,000, and 8 per cent of capital invested, \$80,000, making the total exempt profits \$85,000, leaving as excess profits \$110,265. A tax of 8 per cent of this amount, that is the excess profits tax, will be \$8,821. This leaves as the net excess profits \$101,443, and the exempt profits \$85,000. Total profits for division among stockholders, after paying all these taxes upon a net income of \$200,000, will be \$186,443. The shareholders will pay no additional income tax upon their dividends, because the share of each would be less than \$20,000. Total taxes, corporation excise, \$750; corporation income, \$3,985; excess profits, \$8,821; total, \$13,556.

He made the same calculations with reference to a copartnership. The total profits in that case exempt from taxation he found would be \$190,800. He divided this between the five partners in order to ascertain the amount of his individual income tax. The share of each partner will be \$38,160. Income tax, normal, 2 per cent on \$34,160 will be \$683.20. Additional tax 1 per cent on excess over \$20,000, will be \$181.60; total, \$864.80; making the total individual income tax of the five partners \$4,324. The net result of that calculation shows that a copartnership would pay \$13,524, a difference of only about \$30 from a corporation.

Now, take the individual with the same capital and profits. On \$196,000 he will pay 2 per cent, an additional 1 per cent on \$20,000, an additional 2 per cent on \$20,000, an additional 3 per cent on \$20,000, an additional 4 per cent on \$20,000, an additional 5 per cent on \$50,000, and an additional 6 per cent on \$50,000, which makes a total income tax that the individual would pay of \$11,420. That is, his total income tax would be about \$2,000 less than the total tax that would have to be paid from the profits of the same business when conducted as a corporation or as a copartnership, including the excess tax.

If you charge the excess profits tax against the individual you have this result: Exempt profits, \$5,000, plus 8 per cent, capital invested, \$80,000, or a total exempt profit of \$85,000; taken from the net profit after deducting the income tax, \$11,420, which would leave as excess profits, \$103,580. Impose the 8 per cent tax on this and you have \$8,286 as the excess profits tax. The total tax the individual would pay under those circumstances is \$11,400 income tax and \$8,286 excess profits tax, a total of \$19,706, as against \$13,524 by a partnership and \$13,556 by a corporation. So that it is perfectly clear that under the provisions of our income-tax law, if you impose this excess profits tax upon individuals as well as upon corporations and copartnerships, you will bring about a gross inequality, an inequality amounting to something over \$6,000 against the individual taxpayer upon a net income accruing to each of \$200,000.

Mr. President, there was more or less vigorous opposition—

Mr. HARDWICK. Before the Senator from North Carolina leaves that branch of the discussion, will he explain to me why

it was that copartnerships, as well as corporations, were made subject to this tax? Do not the individuals composing a copartnership have the same income tax to pay which other individuals do; and why were copartnerships put on a parity with corporations? If the Senator can tell me just in a word, I should be glad. It may be that he has already made the explanation.

Mr. SIMMONS. Copartnerships do very largely the same character of business as corporations, although they do not issue stock. As I have demonstrated, I think, from these figures, the application of this law to copartnerships would not result in any discrimination between them and corporations; that is to say, the profits of a copartnership would have to pay the same tax as the profits of a corporation, and not any more than those of the corporation.

Mr. HARDWICK. But if the argument be applied fairly and squarely, then the individual who is engaged in business with a corporation on one side of him and a copartnership on the other would have to pay the same tax.

Mr. SIMMONS. The corporation only has to pay the excess profits tax on the profits of that corporation. A copartnership consisting of five copartners, taking that as an illustration, as I do, would divide up the income, and they would divide it up exactly as the income of a corporation is divided up between the stockholders of that corporation. Suppose we have a corporation with five stockholders. They divide up at the end of the year the net profits. Each individual stockholder of that corporation must pay an income tax upon his share of the profits, just as each individual partner in a copartnership must pay the income tax upon his dividends, so to speak. One is a dividend; the other is a division of profits; but they are in principle identically the same thing. They represent the net profits of the operations of that concern. It does not make any difference whether it is a corporation or a copartnership they receive the profits, one in the shape of dividends, the other on shares; but, as I said, it is the same thing in principle. After they have received the profits they are both subject to identically the same requirements. With reference to the income-tax law, they are identical, except that as to the individual he would be entitled to exemptions of the income tax paid by the corporation.

Mr. HARDWICK. Let us see whether that is exactly accurate or not. The individuals who compose—

Mr. SIMMONS. I might call the attention of the Senator to another fact, which is very important in this connection, which was about to escape me, and that is the fact that a copartnership, as such, does not pay any income tax at all.

Mr. HARDWICK. But the individual members of the copartnership pay it on their profits?

Mr. SIMMONS. The individual members of the partnership pay on their profits, just as the individual stockholder pays on his profits.

Mr. HARDWICK. Let us see, then, whether or not the Senator has arrived at a just conclusion about this matter. Here is one man engaged, we will say, in the dry-goods business, for the purpose of this illustration—just one. He pays an income tax, and nothing more, to the Government, so far as this proposition is concerned. Here are two men who are engaged in a copartnership—Smith & Jones. Next door, we will say, is Mr. Brown, the first man I spoke of. Brown pays the individual income tax; Smith and Jones, each one, would have to pay an individual income tax, and yet you are going to charge the copartnership another tax, although each one of them will get half of the profits. I do not see why that is.

Mr. SIMMONS. They do not pay like the corporation. The corporation pays a flat income tax of 2 per cent upon its entire profits.

Mr. HARDWICK. Yes.

Mr. SIMMONS. But the copartnership does not pay any income tax upon its net profits at all. The 2 per cent income tax which the corporation has to pay, and which the copartnership does not have to pay, I should say, upon the general average, would make up the difference created by the income tax.

Mr. HARDWICK. It must be my own failure to comprehend exactly what the Senator is trying to explain, but I find this trouble about the proposition, and I have from the beginning of the consideration of this question: I can see how you put the copartnership in in order to equalize it with the corporation, but now let us take the other horn of the dilemma for just a moment. Here are two individuals, we will say, engaged in business—Mr. Smith and Mr. Jones. They are partners, and they are selling dry goods or any other commodity. Right next door to them, perhaps, there is a man named Brown, who is running a business and has no partner. Smith and Jones, each one, must under the Federal law pay, if he makes enough money, his income tax, just as Brown next door who has no partner pays his income tax. Why, then, do you charge Smith & Jones

this copartnership tax when you do not charge Brown anything on his business as a business tax? That is the point I can not understand.

Mr. SIMMONS. I think the figures which I have given to the Senator will explain that. This tax is not a business tax but an income tax, based not on business but upon income or profits.

Mr. HARDWICK. They do not elucidate that point in the slightest particular.

Mr. SIMMONS. I think they do.

Mr. HARDWICK. They do not.

Mr. SIMMONS. Of course, Mr. President, it is utterly impossible to make absolute equality in these cases.

Mr. HARDWICK. But the Senator's figures do not even apply to the question I have suggested.

Mr. SIMMONS. But my figures show that a copartnership, which is a corporation with the single solitary exception that it is not incorporated, conducts business upon the same general principles as does a corporation.

Mr. HARDWICK. Undoubtedly; but if the Senator will pardon me—and I want to get entirely clear upon that point and not get away from it—the Senator's figures would apply to the comparison between a partnership and a corporation, and they do show that there is substantial equality between a partnership and a corporation, but the question to which I am now directing my inquiry—because I want information on the subject—is how you are going to make the same sort of showing with reference to the individual who is engaged in business on his own account and the two individuals who are engaged in business as a copartnership?

Mr. SIMMONS. I can not answer the Senator from Georgia differently from what I have already done.

Mr. HARDWICK. Then the Senator has not answered the question.

Mr. SIMMONS. I have answered the Senator that under the present circumstances the individual pays a graduated tax as high as 15 per cent on incomes in excess of \$2,000,000; the corporation has to pay a flat tax of 2 per cent, while partnerships pay no income tax at all.

Mr. HARDWICK. Now, if the Senator will pardon me, I am not willing for that sort of an answer to stand. I am going to get this thing straight, if I can. That is not true about either the individual or the partnership. It is true as to the corporation, which pays, as I understand, the 2 per cent tax.

Mr. SIMMONS. The copartnership pays no income tax.

Mr. HARDWICK. I know; but its members do. Both Smith and Jones, who constitute the copartnership, pay.

Mr. SIMMONS. The copartnership members; yes.

Mr. HARDWICK. Just like an individual does.

Mr. SIMMONS. The members pay no income tax, as distinguished from a corporation, until the profits are divided. If an individual receives an income from a corporation, that individual receives that income after it has paid the income tax. If a member of a copartnership receives it, he receives it after it has paid an income tax. They both receive it under the same conditions. The individual will not be subject to this income tax upon the dividends which he receives upon his stock in a corporation or upon his stock in a copartnership in any different way from the way in which the members of the copartnership will be liable for that tax. If the individual has a part of his money invested in a corporation, when the dividends therefrom comes to him, if his total income amounts to more than \$20,000, the excess over the \$20,000 becomes at once subject to the graduated income tax under the provisions of the present law.

As I have already shown, in the case of the business conducted as a corporation, partnership, or as an individual, the imposition of this excess profits tax upon the individual would be a decided discrimination. In the case instanced this would amount to a tax upon the individual of nearly 50 per cent more than the total tax paid from the profits of the partnership. The principal reason for this is the additional income tax payable by the individual. In general, it may be said that the reason for not applying this tax to individuals is, in addition to the above, that the exemptions allowed to individuals will be duplicated to each member of a partnership in his individual capacity; also the nonimposition of any income tax upon partnerships as such. It is evident that the following deductions and exemptions allowed to individuals are multiplied by the number of partners, when the individual partners pay their income tax upon their receipts from the profits of the business:

All interest paid on indebtedness during the year.

All taxes paid during the year.

Losses actually sustained during the year in transactions not connected with the trade or business.

Debts found to be worthless during the year.

The \$4,000 exemption of income allowed married individuals.

I will here insert the table I have been quoting from:

Comparison of the total amount of tax to be paid to the Government from the net profits of a certain business when conducted as a corporation, a partnership, or an individual, said taxes to include all Federal taxes to be paid by the concern, or by members of the same, out of profits derived therefrom.

CORPORATION WITH 10 STOCKHOLDERS.	
Capital invested	\$1,000,000.00
Income, net	200,000.00
Corporation excise tax, 50 cents per \$1,000 upon \$1,500,000.	750.00
Income tax at 2 per cent	3,985.00
Net income	195,263.00

Excess-profit tax:	
Exempt profits (cash)	5,000.00
8 per cent of capital invested	80,000.00

Total exempt profits	85,000.00
Excess profits	110,265.00
Tax at 8 per cent	8,821.20

Total profits to be divided:	
Excess profits	101,443.80
Exempt profits	85,000.00
Total	186,443.80
Share of each stockholder	18,644.38

Personal income tax: No personal income tax.	
Total taxes:	
Corporation excise	750.00
Corporation income	3,985.00
Excess profit	8,821.20
Total	13,556.20

PARTNERSHIP.	
Capital invested	\$1,000,000.00
Net profits	200,000.00
Number of partners, 5.	
Excess-profit tax:	
Exempt profits (cash)	5,000.00
8 per cent capital invested	80,000.00

Total excess profits	115,000.00
Tax at 8 per cent	9,200.00

Profits for division:	
Excess	105,800.00
Exempt	85,000.00
Total	190,800.00
Share of each partner	38,160.00

Income tax:	
Normal, 2 per cent on \$34,160	683.20
Additional, 1 per cent on excess over \$20,000	181.60
Total	864.80
Income tax of all partners	4,324.00

Total taxes:	
Excess profit	9,200.00
Income	4,324.00
Total	13,524.00

INDIVIDUAL.	
Capital invested	\$1,000,000.00
Profits	200,000.00
Income tax:	
Normal, 2 per cent on \$196,000	\$3,920
Additional, 1 per cent on \$20,000	200
Additional, 2 per cent on \$20,000	400
Additional, 3 per cent on \$20,000	600
Additional, 4 per cent on \$20,000	800
Additional, 5 per cent on \$50,000	2,500
Additional, 6 per cent on \$50,000	3,000
Total	11,420.00

Net profits	188,580.00
Excess-profits' tax:	
Exempt profits	5,000
8 per cent capital invested	80,000
	85,000.00
Excess profits	103,580.00
Tax at 8 per cent	8,286.40

Total tax:	
Income	11,420.00
Excess profits	8,286.40
Total (with excess-profits' tax)	19,706.40
Total (without excess-profits' tax)	11,420.00

RESUME.		
	Amount.	Per cent.
Corporation	13,556	6.77
Partnership	13,524	6.76
Individual	19,706	9.85
Individual (without excess profits)	11,420	5.71

Mr. McCUMBER. Mr. President, right here may I ask the Senator a question so that I may understand the matter? I understand under this proposed law there is first an exemption of \$5,000, both as to partnerships and corporations, and then there is allowed a further exemption of 8 per cent on the capital stock.

Mr. SIMMONS. Yes; the 8 per cent being based upon the actual capital invested, however, and not upon capital stock.

Mr. McCUMBER. If there is nothing more than that earned by the corporation or by the partnership, it pays nothing, but it pays 8 per cent on all above that, and then when the individual, either as a partner or as a stockholder, receives his dividend or his proportion from the partnership, he will be charged again another 2 per cent and an additional tax, according to the amount involved?

Mr. SIMMONS. If the income is received from a corporation, he would pay only the additional tax on the excess of his income over \$20,000. In case his income is received from a partnership he would pay the normal income tax and the additional tax also. The reason for this difference is that the corporation has already paid an income tax of 2 per cent upon the amount returned as dividends to the individual, while the partnerships have paid no income tax upon their profits.

Mr. McCUMBER. He does not have to pay unless his income exceeds \$20,000? Is the Senator sure about that under this bill?

Mr. SIMMONS. What is the question?

Mr. McCUMBER. That the person who draws the dividends from a corporation or draws his share of the partnership profits is not taxed at all unless his income exceeds \$20,000. I do not so understand the bill.

Mr. SIMMONS. The Senator is getting copartnerships and corporations somewhat confused. The copartnership pays no income tax at all.

Mr. McCUMBER. It does not under this bill?

Mr. SIMMONS. No; not an income tax, but an excess profits tax.

Mr. McCUMBER. I understand that, but that is upon its income.

Mr. SIMMONS. It pays no income tax, though.

Mr. McCUMBER. But it does pay a tax on profits in excess of \$5,000 and also in excess of 8 per cent profit on the capital invested.

Mr. SIMMONS. Yes.

Mr. McCUMBER. That is paid by the copartnership?

Mr. SIMMONS. That is paid by the copartnership.

Mr. McCUMBER. Then, if the individual partner draws anything, he is also taxed on whatever he draws as a charge against the individual. Is not that correct?

Mr. SIMMONS. He is taxed under the income-tax law?

Mr. McCUMBER. Yes.

Mr. SIMMONS. If his income, as I understand, exceeds \$20,000.

Mr. McCUMBER. No; is he not taxed if his income exceeds \$4,000?

Mr. SIMMONS. The Senator is correct; my answer was inadvertent. Four thousand dollars, I should have said, or \$3,000, if his exemption is that low.

Mr. McCUMBER. His exemption is \$3,000 if he is single, and \$4,000 if he is a married man. Then there is a double taxation there clearly upon the same funds, for there is first a tax upon the excess profits of the partnership and then another tax of equal amount against the individual in excess of the exemption of \$3,000 or \$4,000, whatever it may be.

Mr. SIMMONS. Yes; but does not the Senator see that the same thing applies to the stockholder who gets his dividends from a corporation; that is, to the individual who invests his money in a corporation?

Mr. McCUMBER. I presume that under this bill probably that is true; but as I understand, under the old law, if his income did not exceed \$20,000, there was no additional tax charged.

Mr. SIMMONS. The Senator probably did not understand me. If an individual invests a part of his money in a corporation, takes stock in that corporation, and the corporation makes a net earning, that earning is divided among the stockholders and the individual gets his part of it. That has paid a flat income tax of 2 per cent.

Mr. McCUMBER. That is paid at the source.

Mr. SIMMONS. No; that is the corporation income tax. That has already been paid, and after that is paid the fund is divided and the individual who invests his money in the corporation stock gets his part of those proceeds; but the minute it comes into his hands it is subject to the income tax.

Mr. McCUMBER. And to a surtax, if his income exceeds a certain amount.

Mr. SIMMONS. If it exceeds \$20,000.

Mr. McCUMBER. If it exceeds \$20,000, it is then subject to the surtax.

Mr. SIMMONS. He must pay the surtax, that is true, whether he gets his income from a copartnership, from a corporation, or otherwise.

Mr. McCUMBER. I am not stating that there is a distinction at all in that respect.

Mr. SIMMONS. Now, Mr. President, there was considerable opposition made to the bill on the part of the munition manufacturers. They insisted that they were already paying quite a considerable tax, and the imposition of this additional tax upon them was a discrimination, an unjust imposition upon their business. The answer to that, whether it be satisfactory or not—and every individual must make his own answer to a question of that sort—the answer: to that, which was made and urged with force, I think, was that if there is any discrimination against the manufacturer of munitions it is not made by this bill. It was made in the present law. The Congress decided in 1916, when it passed the present emergency revenue law, to make a discrimination against these manufacturers, and they fixed the amount of the discrimination at 12½ per cent. That has not been disturbed. We do not add to that discrimination in this bill, because, with reference to the excess profits tax, they are taxed as every other manufacturer is taxed. We simply continue the discrimination, and we say, "subject to the discrimination," if you please to call it so, "made by the prior Congress, we impose this tax upon you as we impose it upon every other corporation."

I do not think that we have levied any tax in this country in many years, certainly not since I have been in Congress, that was more universally demanded by the people than the 12½ per cent flat profit tax that we imposed upon this class of corporations in 1916. It was practically universally demanded. The demand was based upon the justice of the situation. They were making admittedly enormous profits out of the very situation that had called forth the action resulting in imposing upon the shoulders of the people of this country heavy additional taxation, and they are still making them. We have not changed that situation at all; we continue that; but we find that it is necessary to levy additional taxes to pay this very identical expense—that of placing this country in a state of preparedness to meet, if need be, the aggressions of some of those out of whom the munition manufacturers have been and are making these abnormal profits. Why should they not bear the same part of this additional taxation that other corporations are made to bear? There is certainly more justice in this additional levy against them, or as much justice, as in the original levy.

But again, Mr. President, in 1916 when we were about to levy this tax against the munitions manufacturers they came here, not to complain so vigorously against the tax, for they admitted they were making the enormous profits about which the country had heard; they admitted that they were receiving enormous orders from abroad day by day; but the thing of which they complained most severely in connection with the tax was the fact that we made it retroactive; we made it apply to all contracts and to all sales made during the taxable year before the enactment of the legislation as well as after the enactment of the legislation. They said that was unjust. What reason did they give for saying that it was unjust? They said, "If you let this apply only to future sales and contracts we can protect ourselves in the contracts by passing the tax on to the purchaser. We did not anticipate and could not anticipate this legislation. We have made provisions in our contracts for many contingencies, but we have not made provision in any of those contracts for passing on this tax." They had made provision for passing on other taxes, States taxes and municipal taxes, but they had not in those contracts made provision permitting them to pass on this tax, and, therefore, they said, "We have a real cause of grievance against you when you propose to impose this tax upon contracts we have already made, and which we are now billing. What does that mean, Mr. President? That means that while a tax which would ordinarily be called a heavy tax was imposed upon them in 1916, they had a means, which they had already employed as to other taxes, of making their foreign customers pay that tax."

Mr. VARDAMAN. Mr. President, if the Senator will allow me—

Mr. SIMMONS. If we shall add this additional tax it will be just as easy for them probably to pass that on as to pass the other taxes on.

Mr. VARDAMAN. I was about to suggest to the Senator that it would be interesting to the American people to know how able these people are to pay this tax and that information would be furnished by the Senator putting in the Record, if he has it convenient, the profits that they are making on the capital stock of their companies. I understand their profits amount to 200 to 300 per cent.

Mr. SIMMONS. Unfortunately, I have not the figures at hand. If the Senator will supply them to me I will be very glad to see that they go into the Record.

Mr. President, the next objection came from the insurance companies. While all these companies, both old-line and mutual companies, objected to this tax in a general way, the chief objection came from the so-called mutual companies, companies doing insurance on the mutual plan. The general objection, though, made and stressed by both lines of insurance went to the very root and fundamentals of the imposition of the tax. They insisted that a war tax, as they characterized it, should not be imposed upon insurance. In 1916 they came and made a fight against the imposition of the income tax upon insurance companies. They insisted broadly then, as they do now, that insurance was a class of business that stood on its merits separate and apart from the other business of the country and

should be treated upon a different basis and was entitled to higher and more preferential consideration because of the humanitarian and benevolent elements that enter into it. They said, "Our policyholders are making sacrifices and indulging in all sorts of self-denial in order to leave something to those who come after them, and when men make such sacrifices, the usufruct of which is to take place after their death, they are entitled to special consideration by the Federal Government, and income taxes or other war taxes ought not to be imposed."

In 1913, and again last year, under the influence of their persuasive appeal, in the goodness of our hearts we made exemptions, I think in some instances rather remarkable exemptions, in favor of these companies. We did not altogether let them out. When they found that we were going to tax them, they asked for first one exemption and then another, and we granted to them practically every exemption that they asked for. The result, Mr. President, was that the insurance companies have paid relatively a mighty small income tax. I have here in my hand the returns from 20 of the largest insurance companies in this country, including some of the old-line companies and some mutual companies, just as they come in the order of their magnitude:

Statement of income, etc., of 20 leading life insurance companies for the calendar year 1915.

	Premium income.	Income from investments.	Total income.	Expense of operation.	Policy losses paid.	Taxes paid.	Other disbursements.	Total disbursements.	Actual net income.	Net income on which tax was paid.
1.	\$21,739,704.18	\$5,471,156.88	\$27,210,861.06	\$4,361,110.75	\$15,808,988.94	\$768,702.51	\$4,196,233.56	\$25,135,095.76	\$2,075,765.30	\$178,406.29
2.	7,030,584.67	1,341,736.10	8,372,320.77	1,235,534.54	4,548,171.69	111,488.80	54,282.12	5,749,477.15	2,622,843.62	315,399.76
3.	6,612,723.05	3,472,314.96	10,085,038.01	1,258,950.96	6,447,937.76	312,048.86	156,650.02	8,175,587.60	1,909,450.41	714,934.05
4.	52,021,853.47	25,243,604.41	77,265,457.88	9,199,195.91	46,381,483.26	1,201,040.69	359,490.81	57,141,210.67	20,124,247.21	3,588,052.51
5.	5,476,599.55	2,523,759.88	8,000,359.43	1,309,464.19	4,032,553.11	129,708.71	81,394.07	6,453,420.08	1,546,909.35	692,818.11
6.	26,684,540.60	5,438,280.29	32,122,820.89	7,258,047.80	12,556,370.61	334,587.90	233,984.52	20,682,900.83	11,439,830.06	1,790,808.67
7.	10,745,317.61	3,896,541.17	14,641,858.78	2,153,379.66	6,365,866.34	264,421.11	120,810.18	8,904,477.19	5,737,381.59	171,468.98
8.	111,290,321.52	24,443,457.95	135,733,779.47	27,830,610.62	40,499,418.19	1,912,325.19	14,690,356.02	84,932,710.02	50,801,069.45	4,946,953.04
9.	23,704,542.68	7,700,819.93	31,405,362.61	3,754,340.01	14,307,902.50	620,522.95	100,939.68	18,783,705.14	12,621,657.47	1,854,732.76
10.	52,782,699.98	27,391,679.62	80,174,379.60	9,074,652.29	51,425,764.37	1,197,588.04	2,382,433.56	64,080,338.26	16,094,041.34	659,306.23
11.	6,652,132.65	2,204,122.90	8,856,255.55	1,286,496.40	5,534,896.85	201,839.94	86,641.08	7,109,874.27	1,746,381.28	387,850.89
12.	8,576,971.86	2,814,842.77	11,391,814.63	1,724,517.22	5,312,324.61	221,053.87	262,068.04	7,519,963.74	3,871,850.89	1,133,882.38
13.	84,751,481.11	36,493,514.43	121,244,995.54	6,553,652.91	59,680,250.84	1,386,617.34	6,311,710.06	73,938,231.15	47,305,764.39	1,360,503.26
14.	40,592,926.37	15,963,002.60	56,555,928.97	6,819,726.97	29,747,686.00	1,236,152.34	1,805,068.02	39,608,632.33	16,947,296.64	938,436.23
15.	21,205,719.70	7,102,717.84	28,308,437.54	4,376,392.68	14,059,274.30	445,297.54	41,036.79	18,522,001.31	9,786,436.23	301,060.13
16.	5,505,614.35	1,843,556.68	7,349,171.03	1,185,269.31	4,000,099.91	185,288.35	42,561.09	5,413,318.66	1,935,852.37	29,521.04
17.	93,457,320.63	18,002,492.38	111,459,813.31	24,259,953.90	35,345,615.60	2,569,845.02	640,965.14	62,819,379.66	48,670,433.65	262,404.90
18.	5,675,145.59	2,006,142.02	7,681,287.61	1,145,573.20	4,030,114.93	111,279.15	83,491.71	5,370,458.99	2,310,828.62	1,511,224.49
19.	26,767,067.93	4,355,732.20	31,122,800.13	5,128,932.79	14,400,889.47	775,061.69	4,023,380.12	24,328,364.07	6,774,433.06	753,165.28
20.	12,690,793.89	6,592,659.85	19,283,453.74	2,960,939.28	10,087,270.94	357,590.19	442,300.55	13,848,100.96	5,435,352.78	
	623,994,031.09	204,282,134.86	828,276,165.95	122,876,740.29	385,582,280.22	14,342,460.19	36,115,857.14	558,917,337.84	269,358,828.71	30,464,641.88

The gross income of those 20 companies during the year 1915, I believe, was \$828,000,000. After taking out all expenses of operation, losses paid to policyholders, taxes, and other disbursements incident to the business, the total disbursements amounted to \$558,000,000, leaving an actual net income of \$269,000,000.

We were so liberal in allowing exemptions to them that of that \$269,000,000 returned as net income they returned only \$30,000,000 subject to tax under the income-tax law, because, as I said, we exempted nearly everything. Only \$30,000,000 of that \$270,000,000 returned as net income was on account of these exemptions liable to an income tax and actually paid an income tax. The total tax paid by those 20 great companies, with a net income of \$270,000,000, in the year 1915 was only \$304,000!

I might say right here, in passing, that this bill exempts everything that we exempted under the income-tax law. We carry into this bill the exemptions allowed in that law. What are those exemptions?

In the first place, we exempt the whole legal reserve fund that they are required, under the law, to set apart. That is one of their big funds. We exempt the money that they return to their policyholders in the way of excess premiums. We exempt, in short, every dollar of the income of the mutual companies—and they are the chief complainants, as I said—that they return to their policyholders. In addition to that, we exempt them from taxation on a certain element of their securities—and they are the largest purchasers of this element—that is, governmental bonds, State bonds, and municipal bonds. We let them take out their total expenses, including overhead charges of all kinds, salaries, taxes of every kind to the Federal Government, States, counties, and municipalities, all their losses, and tax them only upon the balance.

Now, they make two objections to this tax. They say that they have no actual invested capital and make no profits. They say, "We make no profits, because we return all our money to our stockholders." Well, if they make no profits,

if they do, in fact, return all of their receipts not required to meet expenses to their policyholders, of course they have no net income upon which to levy the tax and would not have to pay any tax; but their statement is misleading. There are some fraternal associations, some few cooperative associations, to which this statement does not apply; but practically all the great mutual companies, which are gradually covering the whole field of insurance and absorbing the great old-line companies—for the old-line companies are mutualizing so rapidly that there are but few of them left—do have a fund that stands in place of invested capital. Sometimes they build that fund up until it is pyramided and topheavy. In the case of one company, they have built it up until it amounts now to over \$43,000,000, and they are adding to it every year. They do have a fund that they neither set apart as a part of their legal reserve to guarantee death losses nor to pay returned premiums or current losses; a fund that, when it is set aside, may at some time in the indefinite future be distributed among the policyholders, just as the funds of any corporation will ultimately be distributed among its stockholders when it goes out of business or winds up its affairs; but it is a fund that stands there permanently, and out of it they pay expenses; out of it they make investments. It is their operating fund. It is the fund set apart to do all the business that the corporation does in addition to the payment of losses. It is actually used in their business.

That fund, as I said, in the case of one great company, has reached \$43,000,000. If they do not add to that fund, if they are content that this great surplus they have piled up and that they are not sharing with their policyholders shall not be enlarged, it will not be taxed. The only tax that this bill imposes is upon the sum that the insurance company annually adds to that great surplus.

To illustrate, the Mutual Benefit Co. of New Jersey, according to the testimony, had a gross income in 1915 of \$38,000,000. That company had what is known in the reports as a surplus—

unassigned profits, they call it sometimes, but it is known in the reports as a surplus—of \$9,000,000 in 1915, already accumulated. Its income in that year was \$88,000,000. They paid out in current losses and returned to policyholders, I think, \$21,000,000. They paid in taxes something around \$700,000, and \$4,200,000 for other expenses. When they had paid all of these expenses out of their premiums for that year they carried to their legal reserve the amount that they were required to add on account of increased liabilities, and after they had paid all of this they had \$1,500,000 as net income upon which to pay income tax. If they had returned that \$1,500,000 to their stockholders as an excess levy—because it was an excess levy—they would not have had to pay any tax that was based on their profits; but instead of returning it to their policyholders they added it to the \$9,000,000 surplus, already big enough for any legitimate purposes of a mutual company.

If any mutual insurance company will do business upon the mutual plan and be what it holds itself out to the public as being, a mutual company, give its stockholders the benefit of what they pay in, if they need an operating fund build it up, but when they have built it up sufficiently stop, as some of them have, and after that time, instead of adding their profits to their surplus fund, give the policyholders the benefit of it in the reduction of their premiums, they will not have to pay any tax. In other words, Mr. President, if they pay any tax under this bill they do it not because they are forced to do it but because they are unwilling to give their policyholders the full benefit of their plan.

Mr. CLAPP. Mr. President—

Mr. SIMMONS. Pardon me; just one minute. Let me finish this statement.

Mr. CLAPP. Certainly.

Mr. SIMMONS. I think, Mr. President, they will not relatively have to pay much tax, as I will show a little further along—no heavy tax. I think if this law will have the effect of making them return this profit to their policyholders instead of using it to swell an already sufficient surplus, it will serve a good purpose in the interest of the policyholders. It may force these companies from now on to do at least a larger measure of justice toward their policyholders than they have done in the past. It may tend at least to stop the piling up of these great surpluses in the treasuries of these companies.

Mr. VARDAMAN. Mr. President, is there any provision in this bill to prevent them from passing that to the policyholders, if they want to, and thereby escaping taxation?

Mr. SIMMONS. None in the world.

Mr. CLAPP. Mr. President, I have followed the Senator's remarks with a great deal of interest, and they are certainly illuminating. I simply want to ask a question, perhaps to accentuate and confirm my own view of the conclusion he reaches. I will ask him if this tax that is proposed would in any manner trench upon, reduce, or impair the rights and interests of the policyholders in this mutual company?

Mr. SIMMONS. I think it would in no way have that effect. On the other hand, I think it would force these companies to distribute among the policyholders a fund which they are now carrying to a surplus which already is sufficiently large and in many instances too large.

Mr. President, I have here the estimated tax to be paid by insurance companies, based upon the various insurance companies' reports of business transacted during the calendar year

ending December 31, 1915, as shown by the 1916 New York life insurance reports. That is, this table takes the actual returns of 34 corporations made under the New York law, and on the basis of those returns estimates the amount of excess profits tax they will have to pay under this act. Just let me call the attention of Senators to a few of them; and let me say, in passing, that it appears from this table that nearly one-half of these companies will not pay a single dollar of the proposed excess profits tax. A large part of them are not paying a single dollar under the present income-tax law.

One of them, and one of the largest of them, was represented before the committee by a very distinguished lawyer acting as their counsel, and he made a vigorous protest against this bill. I refer to the Northwestern Mutual Life Insurance Co. I believe it is a Wisconsin corporation. He made a vigorous protest against this bill. He complained of the income tax that his company was having to pay; and he complained that his company, if this bill was passed, would have to pay an enormous tax, one that would be oppressive to its policyholders. He insisted, as others had, that insurance companies should not be taxed, especially these mutual companies, at all; they ought to be exempt. Before he finished, however, he admitted that his company alone—doing a business that he said, because of its character, the United States Government ought not to tax at all—was paying now in the way of State, county, and municipal taxes in the several communities in which it was doing business, or paid last year, \$1,100,000; and yet he thought that it was wrong for the Government to tax it at all. All of these companies whose report I read a little while ago, all of those 20 largest companies, while they paid the Government last year, and complained about it, a tax of only \$304,000, according to their own return paid to the States, counties, and municipalities in which they are doing business a tax of \$14,342,000.

Mr. CLAPP. Mr. President, as I understand, these companies are required in most States to keep a certain amount on deposit with the States in which they do business, are they not?

Mr. SIMMONS. Yes. That is their legal reserve.

Mr. CLAPP. Would or would not that be affected by the proposed tax?

Mr. SIMMONS. Absolutely not—their legal reserves are exempt under the income-tax law and under the pending bill.

What I was going to say about this distinguished counsel that came here to represent this company, protesting against the tax it is paying now and the tax it would pay under this bill, was this: When I turned to the report I have just presented to the Senate, and examined it, after reading his testimony before the committee, I discovered that in the year 1915, about which he was talking, his company, though it is a mutual company, with a surplus, according to its return, of \$14,988,000, will not pay one single dollar under this tax, because the deductions to which it would be entitled—the \$5,000 and the 8 per cent upon its \$15,000,000, in round numbers, of surplus—absorb its net profits, and leave nothing for the act to operate upon.

Mr. President, without reading this report, I wish to incorporate it in my remarks as a part of them.

The PRESIDING OFFICER (Mr. THOMAS in the chair). In the absence of objection, it will be so ordered.

The matter referred to is as follows:

THE EXCESS PROFITS TAX UPON INSURANCE COMPANIES.

The estimated tax to be paid by insurance companies is based upon the various insurance companies' reports of business transacted during the calendar year ended December 31, 1915, as shown by the 1916 New York life insurance report.

Insurance companies' statements of business transacted during the year ended Dec. 31, 1915, and estimated tax under the excess-profits tax provisions.

Company.	Capital.	Surplus.	Total capital and surplus.	Net taxable income 1914 under income tax.	Deductions under excess-profits tax.	Taxable income under excess-profits tax.	Estimated tax to be paid under excess-profits tax.	Policyholders.	Tax per policyholder (cents).
The Equitable Life Assurance Society of the United States.....	\$100,000	\$10,066,675	\$10,166,675	\$447,574	\$827,285	None.	None.	\$653,207	None.
Farmers and Traders Life Insurance Co.....	200,000	54,979	254,979	None.	25,398	None.	None.	823	None.
The Germania Life Insurance Co.....	200,000	1,789,128	1,989,128	522,067	174,571	\$347,496	\$27,800	79,753	35
Home Life Insurance Co.....	125,000	1,953,283	2,078,283	None.	171,261	None.	None.	61,695	None.
The Manhattan Life Insurance Co.....	100,000	241,384	341,384	None.	32,311	None.	None.	33,612	None.
Metropolitan Life Insurance Co.....	25,263,690	25,263,690	50,527,380	1,512,674	2,055,349	None.	None.	15,832,835	None.
The Mutual Life Insurance Co. of New York.....	14,740,055	14,740,055	29,480,110	758,241	1,199,369	None.	None.	734,560	None.
New York Life Insurance Co.....	43,436,629	43,436,629	86,873,258	9,208,371	3,064,098	5,544,273	443,542	1,176,321	33
Niagara Life Insurance Co.....	150,000	150,000	300,000	None.	17,000	None.	None.	4,823	None.
Postal Life Insurance Co.....	100,000	151,113	251,113	15,261	25,394	None.	None.	21,991	None.
Security Mutual Life Insurance Co.....	225,552	225,552	451,104	50,044	21,045	25,999	2,080	31,427	7
United States Life Insurance Co. in the City of New York.....	264,000	139,498	403,498	84,377	38,967	45,410	3,633	14,443	25
Ætna Life Insurance Co.....	5,000,000	13,103,148	18,103,148	97,881	1,455,209	None.	None.	193,631	None.
Bankers Life Co.....	13,586,320	13,586,320	27,172,640	252,224	1,096,950	None.	None.	189,962	None.
Berkshire Life Insurance Co.....	1,212,939	1,212,939	2,425,878	None.	102,035	None.	None.	32,106	None.
The Colonial Life Insurance Co. of America.....	250,000	98,714	348,714	6,640	33,030	None.	None.	233,934	None.

Insurance companies' statements of business transacted during the year ended Dec. 31, 1915, and estimated tax under the excess profits tax provisions—Continued.

Company.	Capital.	Surplus.	Total capital and surplus.	Net taxable income 1914 under income tax.	Deductions under excess profits tax.	Taxable income under excess profits tax.	Estimated tax to be paid under excess profits tax.	Policyholders.	Tax per policyholder (cents).
The Columbian National Life Insurance Co.	\$1,000,000	\$453,543	\$1,453,543	\$163,281	\$124,549	\$38,732	\$3,099	28,629	11
Connecticut General Life Insurance Co.	400,000	1,494,211	1,894,211	331,893	160,775	171,118	13,689	45,994	30
Connecticut Mutual Life Insurance Co.		4,423,627	4,423,627	675,333	372,397	302,936	24,235	100,411	24
The Fidelity Mutual Life Insurance Co.		1,230,158	1,230,158	416,309	111,739	304,570	24,366	64,403	38
John Hancock Mutual Life Insurance Co.		7,622,695	7,622,695	654,542	627,905	26,634	2,131	2,790,631	0.03
Massachusetts Mutual Life Insurance Co.		6,308,281	6,308,281	1,912,678	547,916	1,364,762	109,181	165,492	66
The Mutual Benefit Life Insurance Co.		9,725,636	9,725,636	1,539,168	813,834	725,334	55,027	314,763	18
The National Life Insurance Co.		4,303,434	4,303,434	None.	349,275	None.	None.	101,122	None.
New England Mutual Life Insurance Co.		5,118,800	5,118,800	83,718	416,178	None.	None.	128,438	None.
The Northwestern Mutual Life Insurance Co.		14,988,685	14,988,685	257,869	1,209,252	None.	None.	548,762	None.
The Penn Mutual Life Insurance Co.		7,630,652	7,630,652	974,591	634,944	339,647	27,172	237,603	11
Phoenix Mutual Life Insurance Co.		1,603,039	1,603,039	362,757	140,493	222,259	17,781	88,259	20
Pittsburg Life & Trust Co.	1,000,000	535,525	1,535,525	177,707	131,396	46,311	3,705	60,135	6
Provident Life & Trust Co. of Philadelphia	1,000,000	4,776,413	5,776,413	138,722	469,887	None.	None.	126,923	None.
The Prudential Insurance Co. of America	2,000,000	26,615,188	28,615,188	3,460,384	2,363,423	1,096,961	87,757	13,828,276	0.6
State Mutual Life Assurance Co. of Worcester		3,163,868	3,163,868	426,323	266,636	159,687	12,775	75,388	17
The Travelers Insurance Co.	5,000,000	5,210,865	10,210,865	1,325,008	1,088,369	236,639	18,931	147,288	13
The Union Central Life Insurance Co.	500,000	3,647,724	4,147,724	803,787	352,894	450,893	36,071	200,426	18
Union Mutual Life Insurance Co.		1,327,649	1,327,649	185,488	114,922	70,566	5,645	43,052	13
Total.....	17,389,000	239,213,081	256,602,081	26,844,900	21,240,062	11,520,227	921,620	38,390,118

Mr. SIMMONS. This table covers 34 insurance companies. As I said, more than half of them, I think, are mutual companies and many of them will not pay any tax. These companies had altogether a capital stock, in round numbers, of \$17,000,000; but these 34 companies returned to the State of New York under the head of surplus \$239,000,000, total capital and surplus \$256,000,000, net taxable income \$26,000,000, deductions under excess-profit tax \$21,000,000. So that these 34 companies, among the largest in the world, will return for taxation under this act only \$11,000,000 out of a total surplus of \$256,000,000, and the tax which they will pay under this bill to the United States Government will amount to the meager sum of \$921,000, not as much as one of them, the one to which I have referred to, the Northwestern Mutual—and that is not the largest—paid last year to the States, counties, and municipalities in which it does business.

Mr. President, some of these companies have claimed before the committee that this surplus, the additions to which we propose to tax, this surplus that we propose to have constitute the fund upon which the 8 per cent exemption is to be levied and ascertained, and the increase of which we propose to make the basis of net income, is in some way or other set apart and will go back to the policyholder upon the happening of some sort of indefinite contingency that may happen or may never happen. The truth about the business is, I think—and that is borne out by the brief filed by one of the largest of these companies and the statement of its attorney—that this surplus is maintained for the purpose of providing against what they call the fluctuations in the value of the securities which under the law they are required to deposit in the various States as legal reserve. They say those securities sometimes depreciate, and after they fall below a certain standard of value they are required to make good their depreciation by the deposit of other or additional securities, and that this surplus is kept for that purpose and for the purpose of making good losses in investments. Here is the statement made in a brief, I will call it—it seems to be in the nature of a brief—filed with the Finance Committee by the Northwestern Mutual Co.:

This is a protest against imposing an excess profit tax upon mutual life insurance companies, submitted by the Northwestern Mutual Life Insurance Co. They start out by saying:

We have no stockholders. Our funds belong to our policyholders. We collect from them from year to year a sum which, with interest additions, enables us to fulfill our contracts. We carry a comparatively small surplus to take care of the fluctuations in the market value of our securities and to make good losses in investments. Aside from this surplus, all other income is returned to the policyholders at one time or another.

It may be well to call attention in this connection to the fact that while some of the securities in the legal reserve may depreciate, others may appreciate, and while there may be losses in some investments, there may be compensating profits on others.

From the statement of this company and its attorney that I have just read, it appears that this surplus, which they sometimes call their contingent reserve, is not to be returned to the policyholders, but is kept for a specific purpose, to wit, to guarantee against depreciation of securities in their investment fund.

It may never be called upon for that purpose, and it could only be called upon for that purpose in case the depreciation of some of their securities was so great that it would not be made good by the interest on their investments and that the State should require them to make good their depreciation. It is not kept there idle, of course; it is kept employed. It is used in the operation of business. It is not returned to the policyholders. In the case of a mutual company the annual additions to this fund, Mr. President, is the only part of their profits upon which the tax imposed in this bill will operate.

Mr. CLAPP. I do not know whether the Senator would prefer to present the bill without interruption at this time or not.

Mr. SIMMONS. I am about through, I will say to the Senator.

Mr. CLAPP. Then I should like to ask the Senator—

Mr. SIMMONS. Will the Senator just let me finish reading this testimony?

Mr. CLAPP. Certainly.

Mr. SIMMONS. On the same line a distinguished lawyer, Mr. Barnes, speaking for one of these insurance companies, used this language to the committee:

Let me refer for a moment to this item of surplus. There is only one excuse, in my judgment, for mutual life insurance companies carrying a surplus account at all. We all do it and we do it, I think, for just one reason, and that is to take care of the fluctuations in the value of securities from time to time so that there will no time come when we have not enough property on hand to keep our reserve unimpaired. For instance, our company has an investment of \$100,000 in bonds and this goes up and down. There are times when the fluctuations were quite remarkable. We may meet losses from time to time, and so we carry a surplus which we think is large enough to cover those fluctuations and to cover any unusual losses that we may meet. It is an insurance fund to insure the stability and continuity of the reserve fund which we must carry for the benefit of our policyholders.

Mr. CLAPP. What company is that?

Mr. SIMMONS. The Northwestern Mutual Life.

Mr. CLAPP. That has answered the question I designed to ask the Senator.

Mr. POMERENE. Mr. President, the same reason which he assigns for exempting these companies from taxation would apply with equal force to the fluctuating values of raw material or stock which a manufacturing company carries.

Mr. SIMMONS. Of course. That is the purpose of this surplus. The declaration by one of the largest companies that came before the committee is to the effect that that is the only fund which is not returned to the policyholder at one time or another.

Does this bill do an injustice to the policyholders of mutual companies? I do not think it does. The only capital of a mutual company which it treats as invested capital is its surplus accumulated in previous years. If the annual addition to this fund is not in excess of \$5,000 plus 8 per cent, it pays no tax. These surpluses are, in the case of most companies, already sufficiently large for the purposes they are intended to serve. These annual additions serve apparently no good purpose except to swell an already sufficient fund. If there are profits that might be carried to this fund, they can as well be returned to the policyholder, and if returned to the policyholder, there will be no income upon which the tax imposed in this bill would operate.

So we impose a tax which can be avoided and will be avoided, if these companies treat their policyholders fairly, if they do not insist upon increasing from year to year by more than one-twelfth, an already overgrown fund.

Mr. President, I have already taken up in explaining the bill more time than I intended. The excess profits tax is not an oppressive tax. There may be those who would prefer some other way of raising this money than by this tax, but I do not believe the tax can be successfully assailed as unjust, unfair, unduly discriminatory, or as excessive taxation.

The bill lays no burden upon any industry in this country that is not making a clear net profit after meeting every actual and contingent obligation that it is liable for, until it makes, in addition, a profit of 8 per cent upon its actually invested capital and, in addition to that, \$5,000.

I am not going to discuss the question whether 8 per cent is a sufficient profit for a corporation or partnership to make upon its investment. It is not proposed to take from the taxpayer the excess over 8 per cent. Eight per cent is a good, ordinary business profit, and the Government demands no part of that. It only taxes the excess over that sum plus \$5,000.

We are confronted by a great national emergency. We are not at war, it is true, but we are in a situation almost as bad. We find ourselves unprepared for exigencies of the most portentous import that may overtake us at any moment, a situation that might involve the national safety, not to say the national life.

For 30 or 40 years we have been reposing in a false security, looking to physical conditions and barriers to protect us against aggression from the outside world. These barriers have been removed by the agencies of modern invention and science. We have been brought by the progress of the world into practical juxtaposition with all maritime countries. The distance that separates us by water has practically been eliminated. We have been brought into juxtaposition on one side with a warring continent, a continent aflame with war; on another side, with a continent a part of whose people have been said to be ambitious to control one of the great oceans of the world, to drive us out, and to monopolize the trade of that great ocean. Whether this is so or not, a great national emergency has arisen, full of dangers and possibilities not foreseen or anticipated, and for which we had not in advance adequately prepared, and which admonish us to take immediate and quick action involving large expenditures, to the end that we may be able to defend our country and enforce our rights upon land or sea against aggression or invasion.

The public sentiment of the country demands that as speedily as possible this condition shall be changed, that this great Nation, naturally the most powerful and the wealthiest and, with but few exceptions, having the largest population of any country in the world, will not remain in a position of helplessness; that it shall, with such speed as is possible, when backed by the wealth and the resources of the Nation, prepare itself adequately, both upon land and upon sea. For this purpose, and in response to this public demand, we are about to appropriate the great sum of \$530,000,000 for the next year in excess of the appropriation for these purposes in 1916, the year before this public awakening.

We say to these men, representing the corporate industries of the country, you are the people who led in this propaganda in favor of adequate preparedness. The only direct tax that corporations are now paying to the Federal Government is a small excise tax upon their capital and an income tax of 2 per cent upon their net income. Compared with enormous consumption taxes paid by the masses of the people, the tax they pay may be said to be a small tax, while their prosperity is exceptionally great under existing conditions. The total taxes which corporations other than manufacturers of munitions pay will under the present law not amount to much more than \$150,000,000 a year. The net income of corporations for the last taxable year, after paying all expenses, was \$5,700,000,000. The consumption taxes paid by the masses of the people amounts to many times that sum. This bill does not tax corporations unless they are prosperous, unless they are making a fine profit upon their investments, and then only taxes them one-twelfth of their profits in excess of a profit above the average made on ordinary investment.

Mr. President, the largest corporate investment of this country is that invested in railroads. Their business is that of selling transportation; they distribute the products of the people. The largest customers of the railroads in this country are the corporations. We have a law in this country which in effect says to the railroads you shall not charge for transportation, including the products of the factories of these great cor-

porations, a sum in excess of a reasonable profit. The courts have applied that law of Congress and of the States, because the States followed in the line of Congress in the matter of regulating railroad rates, and interpreted the purpose and intent of Congress with reference to this matter of rates.

Under the decisions of the courts, applying the laws of reasonable rates, which were made largely for the benefit of corporations, and made largely because of their demands—because it was they who led the fight against excessive railroad tariffs—under these decisions, interpreting the will of Congress as declared in the enactment, these railroad corporations, the largest investors in this country, in the performance of this great function, the distribution of the products of the industry of the country, are not permitted to make a rate predicated upon a profit of as much, certainly not more, than 8 per cent. I think there is no case in the books in which the court, in determining the reasonableness of a rate, have held that the roads were entitled to fix their rates on a higher basis of profit than 8 per cent.

Mr. LA FOLLETTE. Mr. President—

The PRESIDING OFFICER (Mr. ASHURST in the chair). Does the Senator from North Carolina yield to the Senator from Wisconsin?

Mr. SIMMONS. I do.

Mr. LA FOLLETTE. Of course, the Senator does not mean upon the actual investment in railroad property?

Mr. SIMMONS. I mean a profit upon their business.

Mr. HITCHCOCK. Mr. President, there are undoubtedly some railroad corporations that are paying dividends above 8 per cent, though there are not many; but a large portion of their capital is in bonds, which pay only 4 or 5 per cent. So the Senator is correct.

Mr. SIMMONS. I had reference to the standard of profits which the court establishes in determining the reasonableness of a rate charged by a railroad.

When we come to banks and individual capitalists, which are in most of the States hedged about by usury laws, they are not permitted to charge more than a certain per cent; sometimes 6 per cent; it may be under special contract 8 per cent upon money loaned; more than that is generally held to be usurious and illegal. A man who is compelled to pay a higher rate in my State and in most of the other States can bring suit and recover it. Yet when the Government, not proposing to confiscate a cent, not proposing a limitation upon profits at all, says to the great corporations of this country, "If you are making more than 8 per cent plus \$5,000 net profit, you shall contribute a reasonable part of that excess—one-twelfth of it—to pay the expenses of the Government," it is denounced as confiscation—that is the term some of them use—denounced as extortion, or, as one of them put it to me, "It is taking our profits away from us."

Why, Mr. President, the \$100,000 corporation—and that is an average-size corporation in my part of the country—has got to make 13 per cent profit before it will have to pay a single dollar in taxes under this bill. There are corporations of that size in my State and elsewhere in this country who are making as high as 33 per cent profit. Under this proposed act, what would such a corporation, making a net profit of 33 per cent, pay in the way of excess profits taxes? Taking out the 13 per cent, which represents the \$5,000 exemption, and the 8 per cent exemption, there would be \$20,000 left. The excess profits tax upon that would be \$1,600, leaving that company, after paying this tax, still a net income of over 31 per cent.

Mr. CLAPP. Would this bill impose a tax on an individual—and I am not asking the question out of any personal interest on my part, because it does not affect me—who loaned money out at interest in excess of 8 per cent? Would this bill tax that excess?

Mr. SIMMONS. No; of course an individual is not subject to this tax.

Mr. CLAPP. It would apply in the case of a corporation loaning money?

Mr. SIMMONS. Yes.

Mr. CLAPP. There are States in the Union where the legal rate of interest, I think, in the main is above 8 per cent; in a great many of the States it is 10 per cent; and if the current rate was above 8 per cent, of course it would simply carry that tax right over onto the borrower.

Mr. SIMMONS. Mr. President, I should not care to go into a question of that sort. There would be no tax charged against the corporation that happens to make over 8 per cent on its money, unless it made a profit after deducting \$5,000 and the 8 per cent provided in this bill. It does not make any difference whether the net income comes from usury or other sources, if

this net income was in excess of 8 per cent and \$5,000; they would pay the tax; otherwise they would not.

Mr. CLAPP. Where it is authorized by the State and local conditions are such that the rate of interest is above 8 per cent, in those cases I think the tax would simply be passed right over onto the borrower. I do not see any escape from that conclusion.

Mr. SIMMONS. If the tax was passed on to the borrower, the profits of the lending firm would be increased; and consequently his tax payable to the Government would be increased. The greater his profits the greater the tax to be paid.

Mr. McLEAN. Mr. President, I want to ask the Senator a question before he leaves the subject.

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Connecticut?

Mr. SIMMONS. I yield.

Mr. McLEAN. I want to ask the Senator if he has taken into consideration the possible effect of this 8 per cent excess profits tax on very small incomes which happen to be invested in a particular corporation? Take, for instance, the corporation which the Senator cited as his illustration, having a capital of a million dollars and paying 20 per cent. It seems to me that the tax of 8 per cent on the 12 per cent excess is a 1 per cent tax on the entire capital. A widow left, we will say, with 50 shares of stock in such a company, would pay a tax of \$50, or 5 per cent of her entire income.

Mr. SIMMONS. I do not know that I quite catch the meaning of the question the Senator has asked, but small corporations are rather favorably dealt with in this bill.

Mr. McLEAN. I am not speaking about that. I am speaking about the illustration which the Senator cited of a corporation with a capital of a million dollars. Of course, there the \$5,000 exemption would be a small matter.

Mr. SIMMONS. Yes; it would be a small matter.

Mr. McLEAN. It pays a 20 per cent dividend. Now, the excess profits tax would be 8 per cent of 12 per cent, or practically 1 per cent of the capital; so that the dividend of 20 per cent would be reduced to 19 per cent if it were charged over to the dividend, or 5 per cent of the income. Therefore, a woman, for instance, inheriting 50 shares of stock in such a corporation and having no other property would pay an income tax of a dollar a share, or \$50 upon her income of \$1,000. I ask the Senator if the committee took that into consideration?

Mr. SIMMONS. That particular case was not taken into consideration.

Mr. BRADY. Mr. President—

Mr. McLEAN. I think, if the Senator from Idaho will pardon me, that those cases will not be unusual.

Mr. SIMMONS. We can not frame a law that will not have some of the quicksands about which the books speak.

Mr. McLEAN. I think it would have been very easy to have framed this law to avoid that inequality and injustice.

Mr. SIMMONS. The Senator will have an opportunity to suggest such amendments as he desires.

Mr. McLEAN. I shall have an opportunity to suggest my remedy, but I doubt very much if it will be accepted.

Mr. SIMMONS. I will suggest to the Senate that I am not quite sure that I fully caught the meaning of his inquiry, but I will not bother him to repeat it.

Mr. BRADY. Mr. President, referring to the statement of the Senator from Connecticut, we must bear in mind that in the case he has mentioned the woman owning the stock would receive 8 per cent before the excess profit tax becomes operative, and in addition to the 8 per cent dividend, which ought to be a reasonable dividend on the stock, she would receive her proportion of the \$20,000, would she not?

Mr. SIMMONS. Yes.

Mr. SMITH of Georgia. She would get 19 per cent still.

Mr. McLEAN. But it would be a 5 per cent income tax on an income of \$1,000 in that company.

Mr. BRADY. But when she says that she has already received 8 per cent on her stock.

Mr. McLEAN. Yes; but such investments are very apt to have a market value that would not return more than 4 or 5 per cent on the investment. For instance, a stock paying 20 per cent ordinarily would have a market value of \$400 a share, and a very careful and conservative man might invest his accumulations, which might not be very large, in 50 shares of that stock and leave it to his wife as something that would be exceptionally safe. Now, it has been the policy of Congress up to date to exempt all incomes less than \$3,000 in any case, and it would seem to me to have been much better to have raised the additional sum needed by adding to the general income tax the amount required.

Mr. SMITH of Georgia. Mr. President—

Mr. McLEAN. Or, if the Senator from Georgia will pardon me, by resorting to that source to which all civilized nations resort, the customs duties.

Mr. SMITH of Georgia. I have no doubt we will discuss the question of adding to the customs duties before we get through, and I think we can easily show the Senator that that would be an impracticable way to raise revenue at this time. Of course, there is an element of inequality in nearly every system of taxation. It is extremely difficult not to leave some element of inequality. The percentage in the case the Senator gave would be 3 per cent on the income, and not 5—a little less than 3.

Mr. McLEAN. No.

Mr. SMITH of Georgia. Yes; the fixed tax is 2 per cent, and 8 per cent on 12 per cent is 0.96 of 1 per cent. That, added to the 2 per cent, is a little less than 3 per cent of the lady's income, in the illustration the Senator gave of the dividend of 20 per cent that ordinarily would have been paid.

Mr. McLEAN. If the dividend were reduced by 1 per cent, as it would have to be. I may be wrong, but I assume that a dollar is 5 per cent of \$20.

Mr. SMITH of Georgia. It is 3 per cent of the dividend. Two per cent is the fixed tax that the corporation pays, and 8 per cent of the surplus could not be but 0.96 more.

Mr. McLEAN. But that is nearly 1 per cent.

Mr. SMITH of Georgia. Which makes 3 per cent of the income paid in taxes.

Mr. McLEAN. The Senator may be right about that. I have not given it much consideration, but my impression is that the Senator is wrong.

Mr. SMITH of Georgia. I am undoubtedly right. It is a little less than a 3 per cent tax on the income that otherwise would go to the party. Now, our view of the matter is that where a corporation is making these very large dividends, in a great many instances, these very large incomes are incident to the situation that confronts the country at the present time. I can illustrate my view of that by a letter that I wrote to some constituents of mine in the cottonseed oil and in the cotton manufacturing business who for the past two years have been making quite handsome dividends. I happen to have a little stock in the companies myself.

Mr. McLEAN. Mr. President, if the Senator from Georgia will pardon me—

Mr. SMITH of Georgia. Let me finish, and then I will yield to the Senator. Their complaint was that up to the last few years they had been making but moderate dividends, and now as they were making quite good dividends they felt that it was hard to put an excess profits tax on them. My answer to them was very simple. I said: "The same condition that has given you an excess income has obliged the Government to have excess revenue, and you ought to be well satisfied, as we all ought to be, to contribute some of it." I understand that this is not the case everywhere, but where the capital of a corporation is producing more than 8 per cent I do think, in view of the present condition of the country and the number of organizations, some partnerships and some corporations, making vast profits, that 8 per cent on the surplus beyond 8 per cent is about as fair a way to reach the unusual prosperity incident to many of those institutions as could be adopted. Now, I yield to the Senator.

Mr. McLEAN. The illustration I stated was that of a person holding 50 shares of the character of stock to which I have referred. The income would be \$1,000 instead of \$2,000, and the tax would be \$50; that is, if the dividend were reduced from 20 to 19 per cent—1 per cent—\$50 would be the tax.

Mr. SMITH of Georgia. What was the amount of stock held?

Mr. McLEAN. The amount of stock was 50 shares in a corporation of a million dollars capital, paying 20 per cent. The income in that case would be a thousand dollars and the tax would be \$50.

Mr. SMITH of Georgia. The tax would be \$30. The tax could not be more than that if the profit the company was making was 20 per cent. Two per cent would be the charge for the fixed income tax, and 8 per cent of the 12 per cent surplus, about 8 per cent, would be 0.96 of 1 per cent.

Mr. McLEAN. I still think that \$50 is 5 per cent of \$1,000.

Mr. SMITH of Georgia. Well, I have not figured the \$50, but I know that 8 per cent of 12 per cent is 0.96 of 1 per cent.

Mr. PENROSE. Mr. President, I do not expect to discuss this bill at length this afternoon. The hour is late, and I am informed that it is the purpose of the majority to hold an executive session in a short time. I should, however, like to take this opportunity of stating that this bill, like the act of September 8, 1916, has gone through the usual course of consideration

in a secret Democratic caucus to which the public were not admitted. It was a usurpation of the legislative functions of the Senate by the majority. The yeas and nays were not published on the different questions involved. Hearings were held by subcommittees, on which the minority were not represented in any way, and were not even officially informed of the hearings or invited to participate in them. No opportunity was given to cross-examine the few people who appeared before these subcommittees, and the hearings were not even printed, as they should have been, currently from day to day, until the day after the bill had been reported to the Senate. The minority have been completely ignored and have had no opportunity to discuss with the majority the proper ways of raising revenue. Now the bill is reported to the Senate, and in the few days remaining of the session—the Congress expiring by limitation on March 4—it is obviously impossible for the minority to assume any responsibility or entertain any feeling of responsibility for revenue legislation to meet the growing deficit of the Treasury.

Notwithstanding the fact that the revenue measure passed in the last Congress was declared to be amply sufficient for the requirements of the Government and to meet the deficit in the revenues, the Government is again confronted with a deficit and with a necessity of passing another bill to raise additional revenue. The bill in the last Congress was most fully discussed for many weeks, and I predicted and other members of the minority predicted just what has happened. We declared then, as the RECORD will show, that the then revenue bill would not meet the requirements of the Government; that the Treasury was practically bankrupt, in the sense that the revenues did not balance the expenditures; that the deficit would grow; and that further taxes would be necessary. Notwithstanding the declaration made by the majority in the last Congress that the direct-tax law of that session would be amply sufficient, we are now confronted with another revenue bill imposing direct taxes, far more burdensome, in my opinion, than the taxes contained in any of the preceding measures of this character. I again make the prediction, and I make it with the greatest confidence, and I challenge contradiction, that this measure will fail as a revenue producer as the preceding ones have failed, and that the deficit will continue to grow until the deplorable mismanagement of the financial affairs of the country ceases.

The Republican minority in the Senate in the last Congress vigorously called attention to the fact that the revenue bills then under consideration would not be sufficient, and that for all practical purposes the Treasury was likely to continue in a bankrupt condition. To-day, Mr. President, there is a deficit of many million dollars disclosed in the daily reports of the Secretary of the Treasury. The deficit has gone on increasing, and again it is necessary to impose burdensome direct taxes, which will fall principally upon a section of the country.

The Republican minority, Mr. President, is not responsible for the extravagance which has brought about the deficit and, in my opinion, is not called upon to assume responsibility for revenue legislation to meet such a deficit. The minority will recommend that this bill be recommitted to the Finance Committee with instructions to reconsider the same and report, as soon as practicable, on a bill of sufficiently comprehensive character to safeguard American labor and industries, to provide sufficient revenue for the needs of the Government wisely and economically administered, to defray the expenses of necessary increases in the Army and Navy and for the extension of fortifications, and for other purposes of national defense and development, and to frame the bill along the lines of those fundamental principles which have guided the Congress in matters of revenue legislation, with few exceptions, since the First Congress of Washington's administration approved and adopted the first act. I quote—

For the support of the Government, for the discharge of the debts of the United States, and the encouragement and protection of manufacturers.

We earnestly call the attention of the Finance Committee and of the Senate to the fact that absolutely no provision is being made in this revenue bill, nor was provision made in any of the preceding revenue bills since the Democratic Party has been in power, to conserve and protect adequately the industrial and commercial interests of the country when they shall become exposed to the industrial and commercial invasion of European nations when the war in Europe draws to a close. We hold that protection to American industries is now of greater importance than ever before in the history of the country because of the many propositions advanced abroad by legislation and government aid to conserve, promote, and protect the industries of these foreign countries.

I am opposed to this measure, Mr. President, because it violates the established principles of national taxation; it is un-

American, unjust, discriminatory, and sectional. The encroachment by the Federal Government upon the field of taxation hitherto belonging exclusively to the States is already causing a vigorous protest.

I call attention in my remarks on the revenue bill in the last Congress in the following words to the inexpediency of having the Federal Government encroach upon the domain of State taxation:

"The States of the Union and the large municipalities therein all require large revenues for purposes not thought of a few years ago. Our municipalities are nearly all heavily in debt, and are in most cases restricted to a limited field of taxation. The municipal needs, however, are ever enlarging in a constantly increasing ratio, without any prospect of relief from debt or the securing of revenue to meet the demands necessary for projects in the interest of the health and well-being of the citizens. The States themselves and the cities therein are called upon to maintain elaborate boards of health, systems of sewage disposal, continually increasing requirements of educational and eleemosynary institutions, and, over and above all, to cite one instance of development to an extraordinary degree of magnitude in the last few years, the imperative demand for good roads has caused an expenditure running into a staggering amount of money in the aggregate from one end of the country to the other.

"Now the States are expressly excluded by the Constitution from levying duties or imposts, and are obliged to resort to the various well-known forms of State taxation of a direct character. The Federal Government, under the doctrines recently advanced that no taxes should be imposed upon articles of consumption and, apparently, that as little revenue as possible should be collected from imports, encroaches upon the field of direct taxation belonging to the States and abandons a source of revenue from the customhouse to which the Government has the exclusive right. This seems to me illogical in principle and unfair in practice. The ultimate effect necessarily following is that the State revenues will be greatly limited, if not impoverished, and the outlook for many of our municipalities from a financial point of view is not very hopeful."

Since that bill was under consideration, Mr. President, I know in my own State and in many other States the functions of State government have been enormously increased, and many millions of dollars of expenditure have been authorized. In Pennsylvania we have the workmen's compensation bureau, the elaborate department of labor and and factory inspection, and the irresistible demands for good roads which, even since last summer, have almost doubled the appropriations required by the legislature of that great State. In my opinion the time is rapidly approaching when we will witness a revolt from Maine to California against this tendency of Congress to tax inheritances and levy other forms of direct taxation to the deprivation and impoverishment of the great sovereign States with their growing needs and requirements.

I was greatly impressed with a notice which I saw in one of the Washington papers the other day on this point, and I will ask the Secretary to read it.

Mr. STONE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from Missouri?

Mr. PENROSE. Yes.

Mr. STONE. I wish to ask the Senator if he has reached a point where he will yield?

Mr. PENROSE. I should like to have this clipping read, and then I will yield to the Senator.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

A TAXATION CONFERENCE.

Encroachment by the Federal Government upon the field of taxation hitherto regarded as belonging exclusively to the States finally has caused a vigorous protest.

A movement for a national conference has been suggested by the California Legislature. A resolution adopted there recently urges the various legislatures to take steps to send delegates to a proposed taxation congress, that the Federal Senate and House of Representatives be urged to take similar action, and that the President be invited to send a representative.

Gov. Whitman, of New York, in a special message to the legislature, gives support to the California movement. Other States are likely to fall into line.

Certainly there is need for a national conference to define and segregate the proper sources of revenues for the States and the Nation. Taxes on real estate are about the only source of revenue left exclusively to the States as a result of the recent tendencies of Congress. Incomes, inheritances, corporations, personal property, and even business profits are now heavily taxed by the Government. These sources were formerly available to the States; but if the States and the Nation are to compete in the same field it will result in a dual form of taxation that will grow more and more obnoxious.

For the sake of simplicity in administration, if not in the name of equity, a clear understanding should be reached between the States and the National Government as to the field of taxation that should be reserved to each governmental agency.

Mr. STONE. Mr. President—

Mr. PENROSE. I yield to the Senator from Missouri.

Mr. STONE. I thank the Senator.

DANISH WEST INDIAN ISLANDS.

Mr. STONE. From the Committee on Foreign Relations I report back without amendment the bill (H. R. 20755) to provide a temporary government for the West Indian Islands acquired by the United States from Denmark by the convention entered into between said countries on the 4th day of August, 1916, and ratified by the Senate of the United States on the 7th day of September, 1916, and for other purposes. I should like to take up the bill. I will ask the Senator from North Carolina if he will agree to lay the revenue bill aside.

Mr. SIMMONS. The Senator from Missouri assures me he thinks it will take a very short time to pass this very important measure which ought to be acted upon. I will ask unanimous consent to temporarily lay the revenue bill aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina? There being none, the Senator from Missouri is recognized.

Mr. STONE. I ask that the bill I have just reported may be laid before the Senate, and I ask unanimous consent for its present consideration.

Mr. RANDELL. Will the Senator from Missouri yield to me to make a request for unanimous consent? It will take but a moment.

Mr. STONE. The Senator can make his request, but I am very anxious to have this bill considered.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Louisiana?

Mr. RANDELL. I will not detain the Senator, but I wish to ask unanimous consent for the Senate to consider the flood-control bill to-night at 8 o'clock. We are getting close to the end of the session. If we can not get the bill under consideration soon there will be no chance to pass it at this Congress. It is a measure of the greatest interest to a great many people of the country.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. SIMMONS. I can not consent to that.

The PRESIDING OFFICER. Does the Senator from North Carolina object?

Mr. SIMMONS. I object.

The PRESIDING OFFICER. Objection is made. Is there objection to the request of the Senator from Missouri?

Mr. UNDERWOOD. Mr. President—

Mr. STONE. I ask unanimous consent for the present consideration of the bill I have reported.

Mr. UNDERWOOD. I assume that the bill is all right, but before the request for unanimous consent is granted I think it ought to be read to the Senate so that we may understand what is in the bill.

Mr. STONE. I am asking unanimous consent for its present consideration.

Mr. UNDERWOOD. Before that is granted I think we should know what is in the bill.

Mr. STONE. Very well.

The PRESIDING OFFICER. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That all military, civil, and judicial powers necessary to govern the West Indian Islands acquired from Denmark shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct until Congress shall provide for the government of said islands.

Sec. 2. That on and after the passage of this act there shall be levied, collected, and paid upon all articles coming into the United States or its possessions, from the West Indian Islands ceded to the United States by Denmark, the rates of duty and internal-revenue taxes which are required to be levied, collected, and paid upon like articles imported from foreign countries: *Provided*, That all articles the growth or product of, or manufactured in such islands from materials the growth or product of such islands or of the United States, or of both, or which do not contain foreign materials to the value of more than 20 per cent of their total value, upon which no drawback of customs duties has been allowed therein, coming into the United States from such islands shall hereafter be admitted free of duty.

Sec. 3. That until Congress shall otherwise provide, all laws now imposing taxes in the West Indian Islands acquired from Denmark, including the customs laws and regulations, shall, in so far as compatible with the changed sovereignty, continue in effect, except that articles the growth, product, or manufacture of the United States shall be admitted therein free of duty: *Provided further*, That upon exportation of sugar to foreign countries or the shipment thereof to the United States or any of its possessions there shall be levied, collected, and paid thereon an export duty of \$8 per ton of 2,000 pounds in lieu of any export tax now required by law.

Sec. 4. That the duties and taxes collected in pursuance of this act shall not be covered into the general fund of the Treasury of the

United States, but shall be paid into the treasury of the said islands, to be used and expended for the government and benefit of said islands.

Sec. 5. That the sum of \$25,000,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid in the city of Washington to the diplomatic representative or other agent of His Majesty the King of Denmark duly authorized to receive said money, in full consideration of the cession of the Danish West Indian Islands to the United States made by the convention between the United States of America and His Majesty the King of Denmark entered into August 4, 1916, and ratified by the Senate of the United States on the 17th day of January, 1917.

Sec. 6. That the sum of \$50,000 is hereby appropriated for the purpose of carrying this act into effect, to be paid out of any money in the Treasury not otherwise appropriated and to be applied under the direction of the President of the United States.

Sec. 7. That this act, with the exception of section 5, shall be in force and effect and become operative immediately upon the payment by the United States of said sum of \$25,000,000. The fact and date of such payment shall thereupon be made public by a proclamation issued by the President and published in the said Danish West Indian Islands and in the United States. Section 5 shall become immediately effective and the appropriation thereby provided for shall be immediately available.

Mr. UNDERWOOD. Mr. President, before consenting to the present consideration of the bill I should like to get some information from the chairman of the committee, if I can. I should like to know what are the exact terms of the cession of these islands to the United States. If the Senator has a copy of the treaty will he allow to be read a statement as to the terms and how we acquired these islands as a part of the United States, and what is their status?

Mr. STONE. They belong to the United States by purchase.

Mr. UNDERWOOD. I know, but are they a part of our colonial possessions, a part of our territory, or what is the status of the islands as fixed by the treaty?

Mr. STONE. It is a possession of the United States, a territorial possession acquired by the United States by cession from the former sovereign, the King of Denmark. The entire title and right and sovereignty were transferred to the United States by the terms of the treaty for which the United States is to pay the sum of \$25,000,000 within 90 days after the exchange of ratifications.

Mr. UNDERWOOD. I understand that portion of the treaty. I have read the treaty, and I do not want to delay the bill, but I desire to get that information, and until I get the information I will withhold my consent.

Mr. STONE. What is the exact point?

Mr. UNDERWOOD. I want to find out whether these islands come to the United States with the status that Alaska came when we purchased it from Russia or whether they come to us with the status Porto Rico came to us under the treaty with Spain.

Mr. STONE. I should say it was more analogous to the cession from Russia to the United States of what is now the Territory of Alaska.

Mr. LODGE. Will the Senator allow me?

Mr. UNDERWOOD. Yes.

Mr. LODGE. There was a debate in the Senate a great many years ago concerning Florida, then recently acquired by the United States from Spain. Mr. Calhoun, who was discussing it, said: "The Senator from Massachusetts," referring to Webster, "has declared that it is a part of the United States." Mr. Webster, from his seat, said, "Never." Calhoun said, "The Senator certainly said it belongs to the United States." Mr. Webster said, "That is a very different thing." The Danish Islands belong to the United States; they have been purchased.

There is no condition about statehood, no condition about territory, but the power is the power over Government property.

Mr. UNDERWOOD. The Senator from Massachusetts grasps my point of view.

Mr. LODGE. Perhaps not.

Mr. UNDERWOOD. I think he does. I want to know what is the status of the islands to-day under the cession. Are they a part of the territory of the United States, as Alaska was when we acquired it, and does the Constitution go there, or are they an insular possession, under the Porto Rican decision?

Mr. LODGE. The Constitution does not go there unless it goes automatically.

Mr. UNDERWOOD. That is true; it either goes automatically or goes there by legislation. We can send it there by legislation or it can go there automatically by the terms of the treaty.

Mr. LODGE. The treaty gives the islands to us as our absolute property.

Mr. UNDERWOOD. If it is our absolute property—

Mr. LODGE. Except such restrictions as are in the treaty which relate to Danish property rights and certain corporations.

Mr. UNDERWOOD. If that is so, the guaranties of the Federal Constitution have already gone there.

Mr. LODGE. I did not say that, because that is confined to a territory—

Mr. UNDERWOOD. I want to know the language of the treaty.

Mr. LODGE. This is not a territory, it is not—

Mr. UNDERWOOD. I want to know the conditions in the language of the treaty taking these islands over, where it places them, in so far as the Constitution of the United States is concerned.

Mr. LODGE. The relation is the same as in the treaty in relation to the Philippines and Porto Rico.

Mr. UNDERWOOD. Can the Senator from Massachusetts refer me to the part of the treaty which defines the status of these islands?

Mr. LODGE. The treaty of peace with Spain.

Mr. UNDERWOOD. I am talking about the Danish West India Islands. Do I understand the Senator to say that legally, so far as the Constitution of the United States is concerned, they occupy the status that Porto Rico does? Whatever status they do occupy is determined by a treaty. There is no other legislation or action. I do not want to delay the bill and ask that it go over until to-morrow, but—

Mr. LODGE. The treaty simply ceded the islands to us in consideration of \$25,000,000. Of course, it makes certain provisions that inhabitants may remove therefrom at will.

Mr. UNDERWOOD. Does it make any provision about the inhabitants becoming citizens of the United States?

Mr. LODGE. None.

Mr. BRANDEGEE. Will the Senator allow me?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Connecticut?

Mr. UNDERWOOD. I yield.

Mr. BRANDEGEE. If it is a clear cession in consideration of \$25,000,000 paid, and there is nothing said in this act about extending the guaranties of the Constitution to the islands, I should think it would be clear the guaranties of the Constitution did not extend under the decision of the Supreme Court of the United States.

Mr. LODGE. The treaty provides that—

The civil rights and the political status of the inhabitants of the islands shall be determined by the Congress, subject to the stipulations contained in the present convention.

And there are no stipulations except these about certain property rights and certain corporations.

Mr. SMITH of Michigan. There is a citizenship proposition.

Mr. STONE. There is a citizenship proposition in the treaty, if that is what the Senator is speaking about.

Mr. UNDERWOOD. The point I had in mind, I will say to the Senator, is that this bill, possibly very properly, seeks to levy a tax on sugar coming from the Danish West India Islands into the United States for the support of those islands. That may be a proper handling of the question at this time, but as to whether it can be handled in that way, it seems to me, clearly depends upon the status of the islands. If they are a part of the United States, as is Alaska, clearly we can not pass a law that would fix a customs tax between this country and them. If they occupy the status of the Philippine Islands toward this country, I concede that under the Porto Rican decision you could pass such a law. Therefore I wished to obtain the information.

Mr. LODGE. Mr. President, the restriction of the Constitution in regard to export duties relates wholly and solely to the States; it applies to nothing else. The language is as explicit as it possibly can be.

Mr. UNDERWOOD. I am not sure about that.

Mr. LODGE. It is confined to the States explicitly.

Mr. UNDERWOOD. I think, though, if the Senator would examine some of the decisions with relation to the District of Columbia he would find that we could not levy an export tax upon goods made in the District of Columbia and exported. The District of Columbia is not a State.

Mr. LODGE. These islands are not organized as a Territory; they are not a Territory; they are not recognized as such; and they are not a State.

Mr. UNDERWOOD. Of course, outside of that, we can not levy a customs tax between a Territory to which the guaranties of the Federal Constitution apply and the territory of continental United States.

Mr. LODGE. The question of the Constitution extending automatically to those islands is, I think, an open question, but in the Philippines it was explicitly excepted, while in Porto Rico

it was not. Now, this export tax is made necessary by the fact that the only sources of revenue they have are imports, which come chiefly from the United States, and an export duty on sugar. We have obliged them to remove their import duties so far as we are concerned, and they would be left entirely without revenue if we did not continue the export duty. I do not understand that the Senator questions the expediency of it, and, as to the constitutional power, I do not think there is any doubt about that.

Mr. UNDERWOOD. I am not complaining of the course which has been adopted; it may be necessary to adopt such a course in the emergency which confronts us, but the question in my mind, and what I desired information about, was as to whether the committee having the bill in charge was prepared to state what was the status of these islands and as to whether or not we could, under the status fixed in the treaty, levy a customs tax between the islands and continental United States.

Mr. STONE. There is none levied by the bill.

Mr. UNDERWOOD. If I understood the reading of the bill correctly, there is a tax levied on all sugar going out of the Danish West India Islands to other countries.

Mr. STONE. There is an export tax on sugar.

Mr. UNDERWOOD. That is a customs tax—

Mr. STONE. Yes.

Mr. UNDERWOOD. Between those islands and this country. I do not think there is any question that we can not levy a customs tax or an export tax between Hawaii and continental United States under the Constitution, because it is a part—

Mr. STONE. Hawaii is a Territory of the United States.

Mr. UNDERWOOD. Because it is a Territory of the United States. Now, the question as to whether we can levy such a tax between the Danish West India Islands and continental United States is dependent entirely upon the status fixed for those islands in this treaty. That is the proposition that I am trying to get light on, as to what is their political status as defined in this treaty. Now, I am told that this treaty makes the citizens of the Danish West India Islands citizens of the United States. If that is true, and they are made citizens of the United States, they are entitled to all the guaranties of the Constitution of the United States; and if they are entitled to all the guaranties of the Constitution of the United States, because they live and reside in the Danish West India Islands, does not that bring the Danish West India Islands within the inhibition of the Constitution against levying export taxes or of levying customs taxes between the several States?

Mr. SMITH of Michigan. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Michigan?

Mr. UNDERWOOD. I do.

Mr. SMITH of Michigan. I would like to say to the Senator from Alabama that under the treaty the Danish citizens in those islands must renounce American citizenship, provided for in the treaty with Denmark, or they become ipso facto citizens of the United States. The treaty specifically says that "the civil rights and the political status of the inhabitants of the islands shall be determined by the Congress," subject only to the limitations of the treaty, which do not limit the question of citizenship.

Mr. UNDERWOOD. That may save the question. I had hoped, Mr. President, that the committee had investigated this subject and could give us some direct light upon it. I recognize the importance of the bill passing at an early date; and even if the tax should be subsequently decided to be unconstitutional, that portion of the bill which seeks to pay for the islands, if we live up to our contract, of course, ought to become a law. The only question is that if we pass this bill and there is doubt as to the status of those islands, and there is doubt as to whether or not we can properly levy this tax, we may find the citizens of those islands and the government of the islands in a very embarrassed condition.

It was only my purpose to try to ascertain those facts in withholding consent for the immediate consideration of the bill. I do not, however, desire, after calling the attention of those in charge of the bill to the matter I had in mind, to delay the passage of the bill further.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Missouri [Mr. STONE] for the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. STONE. I move to strike out all after the enacting clause of the bill as read and to insert in lieu thereof what I send to the desk.

The PRESIDING OFFICER. The Senator from Missouri proposes a substitute for the pending bill, which will be read.

The SECRETARY. It is proposed to strike out all after the enacting clause and insert the following:

That in so far as the same may be compatible with the changed sovereignty, all powers exercised in the Danish West India Islands on and prior to the 17th day of January, A. D. 1917, by and under the authority of the Government of Denmark, shall, until otherwise provided by the Congress, be exercised by the President of the United States. For the proper administration of the laws, rules, and regulations appertaining to said islands, until otherwise provided by Congress, the President is authorized to appoint a governor, by and with the advice and consent of the Senate, for the said islands, and to appoint such other officers as in his judgment may be necessary, giving official titles to, defining the duties of, and fixing the compensation to be received by such persons, respectively. The governor shall be the chief administrative officer of said islands, and such other administrative officers as the President may appoint as herein provided shall be subordinate to the governor and subject to his direction under such rules and regulations as the President may promulgate; *Provided*, That the President may assign an officer of the Army or Navy to serve as such governor and perform the duties appertaining to said office: *Provided further*, That in so far as compatible with the change of sovereignty over said islands and the proper government thereof, the President shall appoint resident citizens of said islands to civil offices. All military power in said islands shall be vested in the governor, subject to the direction of the President; and all civil powers necessary to the proper government of said islands shall be vested in the officials appointed by the President, or chosen in accordance with law; but all powers shall be exercised in accordance with law and the administrative rules and regulations prescribed by the President.

SEC. 2. That until Congress shall otherwise provide, in so far as compatible with the changed sovereignty and not in conflict with the provisions of this act, the laws regulating elections and the electoral franchise, and the other local laws, in force and effect in said islands on the 17th day of January, 1917, shall remain in force and effect in said islands, and the same shall be administered by the civil officials and through the local judicial tribunals established in said islands, respectively; and the orders, judgments, and decrees of said judicial tribunals shall be duly enforced. With the approval of the President, or under such rules and regulations as the President may prescribe, any of said laws may be repealed, altered, or amended by the colonial council having jurisdiction. The jurisdiction of the judicial tribunals of said islands shall extend to all judicial proceedings and controversies affecting the United States or to which any citizen thereof may be a party. In all cases arising in the said West India Islands and now reviewable by the courts of Denmark, writs of error and appeals shall be to the Circuit Court of Appeals for the Third Circuit, and, except as provided in sections 239 and 240 of the Judicial Code, the judgments, orders, and decrees of such court shall be final in all such cases. So far as the same may be applicable, and not inconsistent with the provisions of this act, the laws of the United States shall be extended over and be in force and effect in the said West India Islands.

SEC. 3. That on and after the passage of this act there shall be levied, collected, and paid upon all articles coming into the United States or its possessions from said West India Islands, the same rates of duty and internal-revenue taxes which are required to be levied, collected, and paid upon like articles imported from foreign countries: *Provided*, That all articles the growth, product, or manufacture of the said West India Islands coming into the United States or its possessions therefrom shall be admitted free of duty.

SEC. 4. That until Congress shall otherwise provide all laws now imposing taxes in the said West India Islands, including the customs laws and regulations, shall, in so far as compatible with the changed sovereignty and not otherwise herein provided, continue in force and effect, except that articles the growth, product, or manufacture of the United States shall be admitted there free of duty: *Provided*, That upon exportation of sugar to any foreign country, or the shipment thereof to the United States or any of its possessions, there shall be levied, collected, and paid thereon an export duty of \$8 per ton of 2,000 pounds irrespective of polariscope test, in lieu of any export tax now required by law.

SEC. 5. That the duties and taxes collected in pursuance of this act shall not be covered into the general fund of the Treasury of the United States, but shall be used and expended for the government and benefit of said islands under such rules and regulations as the President may prescribe.

SEC. 6. That for the purpose of taking over and occupying said islands and of carrying this act into effect and to meet any deficit in the revenues of the said islands resulting from the provisions of this act the sum of \$100,000 is hereby appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States.

SEC. 7. That this act shall be in force and effect and become operative from and after the date upon which the United States shall pay to Denmark the sum of \$25,000,000, as stipulated in the convention between said countries signed at New York on the 4th day of August, 1916, and the fact and date of such payment shall be made public by a proclamation issued by the President, which proclamation shall be published in one or more newspapers printed and circulated in said West India Islands, and be incorporated in the rules and regulations prescribed by the President, as provided for in section 1 of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

Mr. STONE. I move that the Senate adhere to its amendment to the bill, ask for a conference with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and Mr. STONE, Mr. HITCHCOCK, and Mr. LODGE were appointed as conferees on the part of the Senate.

EXECUTIVE SESSION.

Mr. O'GORMAN obtained the floor.

Mr. SIMMONS. Mr. President—

Mr. O'GORMAN. I yield to the Senator from North Carolina.

Mr. SIMMONS. I move that the Senate proceed to the consideration of executive business. I understand there are some nominations which it is desired to act upon.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

RECESS.

Mr. SIMMONS. Mr. President, I will inquire of the Senator from Pennsylvania whether he desires to go on until 6 o'clock?

Mr. PENROSE. I do not think it is worth while.

Mr. SIMMONS. I move, then, that the Senate take a recess until 8 o'clock to-night.

The motion was agreed to; and (at 5 o'clock and 45 minutes p. m.) the Senate took a recess until 8 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHURST in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Kirby	Reed	Smoot
Bryan	Lee, Md.	Robinson	Thomas
Chamberlain	Martin, Va.	Sheppard	Thompson
Clapp	Myers	Sherman	Vardaman
Fletcher	Overman	Simmons	
Jones	Penrose	Smith, Ga.	
Kenyon	Pittman	Smith, S. C.	

Mr. VARDAMAN. I wish to announce the unavoidable absence of the Senator from Tennessee [Mr. SHIELDS] on account of illness.

The PRESIDING OFFICER. Twenty-five Senators have answered to their names. A quorum of the Senate is not present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators.

Mr. LEA of Tennessee entered the Chamber and answered to his name.

The PRESIDING OFFICER. Twenty-six Senators have answered to their names. A quorum of the Senate is not present.

Mr. SIMMONS. I move that the Sergeant at Arms be directed to notify absent Senators to attend the session of the Senate.

Mr. KENYON. I should like to inquire if the Sergeant at Arms can be instructed to arrest Senators and bring them here?

Mr. SIMMONS. The first question in on the motion I made, if the Chair please.

The PRESIDING OFFICER. The Senator from North Carolina moves that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. LANE entered the Chamber and answered to his name.

Mr. CLAPP. It seems to me it is due to the senior Senator from Oklahoma [Mr. GORE] to state that he is dangerously ill, and has been so for some time. I think that ought to appear in the RECORD, if it has not already been stated.

Mr. VARDAMAN. I wish to state again that the Senator from Tennessee [Mr. SHIELDS] is absent on account of illness. He is confined to his room.

I am also advised that the junior Senator from Alabama [Mr. UNDERWOOD] is quite indisposed. I trust these Senators will be excused from the order.

The PRESIDING OFFICER. Is there objection to excusing the Senators who have been named? The Chair hears none.

Mr. SMOOT. I desire to announce the unavoidable absence of the Senator from Ohio [Mr. HARDING] on account of illness, and also the unavoidable absence of the senior Senator from New Hampshire [Mr. GALLINGER].

Mr. ROBINSON. I was requested to announce the absence of the junior Senator from Delaware [Mr. SAULSBURY] owing to illness. He has been absent from the Senate some two or three days, and his absence has been occasioned by illness. I ask that he be excused from the order.

The PRESIDING OFFICER. Without objection, the junior Senator from Delaware will be excused.

Mr. RANDELL and Mr. HUGHES entered the Chamber and answered to their names.

Mr. VARDAMAN (at 8 o'clock and 20 minutes p. m.). Mr. President, may I inquire the number of Senators who have responded to their names?

The PRESIDING OFFICER. Twenty-nine Senators have responded to their names, the Chair is informed.

Mr. SIMMONS. I ask that the Sergeant at Arms be directed to make a report as to what he has done to execute the order of the Senate.

The PRESIDING OFFICER. The Senator from North Carolina moves that the Sergeant at Arms be directed to report as to progress. The question is on that motion.

The motion was agreed to.

Mr. LEWIS and Mr. WADSWORTH entered the Chamber and answered to their names.

Mr. KENYON. Mr. President, I should like to inquire how many Senators have now answered to the roll call?

The PRESIDING OFFICER. The Chair is advised that 31 Senators have answered to their names.

Mr. BRANDEGEE, Mr. BECKHAM, Mr. POMERENE, and Mr. SHAFROTH entered the Chamber and answered to their names.

The PRESIDING OFFICER. The Sergeant at Arms has made to the Senate a report, which will be read by the Secretary.

The Secretary read as follows:

SENATE OF THE UNITED STATES,
SERGEANT AT ARMS,
February 20, 1917—8.25 p. m.

The PRESIDENT OF THE SENATE:

I beg to report on the following Senators:
Senator LIPPITT is reported "not in."
Senator LODGE is reported "not in."
Senator McCUMBER reported sick in bed.
Senator McLEAN reported as dining with Senator WARREN. Now trying to get in communication with Senator WARREN's residence.
Senator BANKHEAD reported sick; gone to bed.
Senator BORAH reported as being on way to Senate.
Senator BRADY reported as being on way to Senate.
Senator C. D. CLARK reported out.
Senator NEWLANDS reported as being on way to Senate.
Senator JOHNSON of South Dakota reported as being on way to Senate.
Senator STERLING reported as being on way to Senate.
Senator KERN reported sick.
(8.35 p. m.) Senator WARREN's residence reports not knowing where the Senator is dining.
Very truly, yours,

CHARLES P. HIGGINS,
By JOHN T. WAYLAND,
Assistant Sergeant at Arms.

Mr. SIMMONS (at 8.37 o'clock p. m.). Mr. President, I move the following order:

Ordered, That the Sergeant at Arms be directed to use all necessary means to compel the attendance of absent Senators.

The PRESIDING OFFICER. The Senator from North Carolina proposes the following order, which will be read.

The Secretary read as follows:

Ordered, That the Sergeant at Arms be directed to use all necessary means to compel the attendance of absent Senators.

The PRESIDING OFFICER. The question is on the adoption of the order submitted by the Senator from North Carolina.

The order was agreed to.

The PRESIDING OFFICER. With the exception of those Senators excused by reason of illness the order will be executed as to other absent Senators at once.

Mr. BROUSSARD entered the Chamber and answered to his name.

Mr. SMITH of South Carolina (at 8 o'clock and 39 minutes p. m.). I inquire how many Senators are now present?

The PRESIDING OFFICER. The Chair is informed that 36 Senators have answered to their names.

Mr. TOWNSEND and Mr. BRADY entered the Chamber and answered to their names.

After a little delay Mr. HUSTING, Mr. COLT, Mr. CATRON, Mr. JOHNSON of Maine, and Mr. LA FOLLETTE entered the Chamber and answered to their names.

Mr. SMITH of South Carolina (at 9 o'clock and 51 minutes p. m.). Mr. President, how many have we now?

The PRESIDING OFFICER. Forty-three.

Mr. MARTIN of Virginia. Mr. President, I desire to say that my colleague [Mr. SWANSON] is just out of a very severe and lengthy spell of sickness, and he did not feel well enough to come to the Senate to-night. While he is not ill, after a day's work he did not feel equal to the task of coming to-night, and he was warned by his physician not to tax himself much.

The PRESIDING OFFICER. Without objection, the Senator from Virginia will be excused from the order compelling other Senators, except those who are ill, to attend the session of the Senate.

At 9 o'clock and 15 minutes p. m. Mr. TILLMAN entered the Chamber and answered to his name.

Mr. TILLMAN. Mr. President, I wish to explain why I was not here when the Senate met. I have been hard at work all day on the naval appropriation bill and I feel very tired. I come down here at night at no time unless notified. If those

in charge of the revenue bill had notified me that they wanted me to stay, I would have been here; I would not have gone home at all.

Mr. SIMMONS. I wish to say to the Senator from South Carolina that I announced this morning that I would ask the Senate to consider the bill to-night.

Mr. TILLMAN. I was upstairs and did not hear it.

Mr. SIMMONS. I will see that the Senator is notified hereafter.

Mr. VARDAMAN. The Senator from South Carolina not being well, I think he should be excused from attending the session to-night.

Mr. TILLMAN. The Senator from South Carolina was notified over the telephone by the Sergeant at Arms that he was wanted in the Senate, and he asked me if I was sick. I told him I was very tired and would be glad to stay away, but that I would come if necessary to make a quorum and carry on the business of the Senate. They sent a taxicab after me with a young boy from Georgia acting as Assistant Sergeant at Arms, and we had a very pleasant ride down. Having come I will stay here until morning if it be necessary to break up this filibuster.

Mr. SMOOT. There is not any filibuster.

Mr. VARDAMAN. I will say that the Senator from South Carolina should not have been notified at all to come. He should be excused from attending all night sessions if he feels that to do so would tax his strength. I am very sure that no Member of the Senate would have the Senator from South Carolina imperil his health by attending these night sessions.

Mr. WATSON, Mr. CURTIS, Mr. CUMMINS, Mr. MARTINE of New Jersey, Mr. STONE, and Mr. HOLLIS entered the Chamber and answered to their names.

Mr. STONE. The Senator from New Hampshire [Mr. HOLLIS] and I were brought by the Sergeant at Arms to the Senate Chamber. I wish to apologize to the Senate for my absence. The Senate did right in using its authority to compel my attendance.

Mr. PENROSE. I move that the Senator's apology be accepted.

The PRESIDING OFFICER. The motion is out of order.

Mr. STONE. I hope the example will be followed in future.

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum of the Senate is present.

Mr. SIMMONS. I ask that the unfinished business be proceeded with.

THE REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 20573) to provide increased revenue to defray the expenses of the increased appropriations of the Army and Navy and the extensions of fortifications, and for other purposes.

Mr. SHERMAN addressed the Senate. After having spoken for some time,

Mr. SMITH of Michigan. Mr. President—

The PRESIDING OFFICER (Mr. VARDAMAN in the chair). Will the Senator from Illinois yield to the Senator from Michigan?

Mr. SHERMAN. I yield for a question. I am extremely desirous not to lose the floor.

The PRESIDING OFFICER. The Senator will not lose the floor.

Mr. SMITH of Michigan. A parliamentary inquiry. The Senate is now operating under a call of the Senate?

The PRESIDING OFFICER. It is.

Mr. SMITH of Michigan. And the call has disclosed a quorum?

The PRESIDING OFFICER. It has.

Mr. SMITH of Michigan. Then I move that all further proceedings under the call be dispensed with.

Mr. SIMMONS. I have no objection to that.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Illinois will proceed.

Mr. SHERMAN resumed his speech, and after having spoken for some time,

Mr. TILLMAN. Mr. President—

The PRESIDING OFFICER (Mr. HUSTING in the chair). Does the Senator from Illinois yield to the Senator from South Carolina?

Mr. SHERMAN. I do, for a question.

Mr. TILLMAN. Will the Senator yield for a motion to take a recess?

Mr. SHERMAN. Yes, sir.

RECESS.

Mr. TILLMAN. I move that the Senate take a recess until 10.30 o'clock to-morrow morning.

The motion was agreed to; and (at 10 o'clock and 47 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, February 21, 1917, at 10.30 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate February 20, 1917.

FEDERAL TRADE COMMISSION.

William B. Colver, of St. Paul, Minn., to be a member of the Federal Trade Commission, for a term expiring September 25, 1920, vice Edward N. Hurley, resigned.

John Franklin Fort, of New Jersey, to be a member of the Federal Trade Commission, for a term expiring September 25, 1917.

UNITED STATES DISTRICT JUDGE.

D. C. Westenhaver, of Cleveland, Ohio, to be United States district judge, Northern District of Ohio, vice John H. Clarke, appointed Associate Justice of the Supreme Court of the United States.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

First Lieut. Frederick T. Dickman, Seventh Cavalry, to be captain from July 7, 1916, vice Capt. Lawrence S. Carson, Twelfth Cavalry, detailed in the Quartermaster Corps.

First Lieut. Adna R. Chaffee, Cavalry, unassigned, to be captain from July 7, 1916, vice Capt. George F. Bailey, Second Cavalry, detailed in the Quartermaster Corps.

First Lieut. George W. De Armond, Fifteenth Cavalry, to be captain from July 7, 1916, vice Capt. William C. Gardenhire, Tenth Cavalry, detailed in the Quartermaster Corps.

First Lieut. John G. Quekemeyer, Seventh Cavalry, to be captain from July 10, 1916, vice Capt. Alfred E. Kennington, Tenth Cavalry, promoted.

First Lieut. Frank M. Andrews, Second Cavalry, to be captain from July 15, 1916, vice Capt. Herman A. Sievert, Seventh Cavalry, promoted.

First Lieut. Joseph C. King, Cavalry, unassigned, to be captain from July 17, 1916, vice Capt. Christian Briand, Twelfth Cavalry, who died July 16, 1916.

First Lieut. George L. Converse, jr., Fourth Cavalry, to be captain from July 21, 1916, vice Capt. Walter S. Grant, Third Cavalry, detailed in the Signal Corps.

First Lieut. Donald A. Robinson, Fifteenth Cavalry, to be captain from August 21, 1916, vice Capt. Thomas F. Ryan, Thirtieth Cavalry, retired from active service August 20, 1916.

First Lieut. Bruce L. Burch, Fifteenth Cavalry, to be captain from August 27, 1916, vice Capt. George E. Mitchell, Sixth Cavalry, promoted.

First Lieut. Edgar M. Whiting, Fourth Cavalry, to be captain from September 6, 1916, vice Capt. Pierce A. Murphy, First Cavalry, promoted.

First Lieut. Edward G. Elliott, Cavalry, unassigned, to be captain from September 13, 1916, vice Capt. Frederick T. Arnold, unassigned, promoted.

First Lieut. Wade H. Westmoreland, Eleventh Cavalry, to be captain from September 14, 1916, vice Capt. Leonard L. Deitrick, Seventh Cavalry, detailed in the Quartermaster Corps.

First Lieut. Guy H. Wyman, Eighth Cavalry, to be captain from September 21, 1916, vice Capt. William S. Valentine, Tenth Cavalry, promoted.

First Lieut. Verne R. Bell, Seventh Cavalry, to be captain from September 28, 1916, vice Capt. Thomas B. Esty, unassigned, retired from active service September 27, 1916.

First Lieut. Henry W. Baird, Ninth Cavalry, to be captain from October 6, 1916, vice Capt. Aubrey Lippincott, Fourth Cavalry, detailed in the Signal Corps.

First Lieut. Alexander H. Jones, Cavalry, unassigned, to be captain from November 15, 1916, vice Capt. Alexander B. Coxe, Second Cavalry, detailed in the General Staff Corps.

First Lieut. Charles L. Stevenson, Fourteenth Cavalry, to be captain from November 21, 1916, vice Capt. William L. Lowe, Tenth Cavalry, retired from active service November 20, 1916.

First Lieut. Frank K. Chapin, Seventh Cavalry, to be captain from December 3, 1916, vice Capt. Ralph Talbot, jr., Fifteenth Cavalry, detailed to the Quartermaster Corps.

First Lieut. Henry L. Watson, Seventeenth Cavalry, to be captain from December 25, 1916, vice Capt. James D. Tilford, unassigned, placed on detached officers' list.

First Lieut. Murray B. Rush, Cavalry, detached officers' list, to be captain from January 16, 1917, vice Capt. Samuel Van Leer, Seventh Cavalry, who resigned January 15, 1917.

First Lieut. Augustine W. Robins, Twelfth Cavalry, to be captain from January 23, 1917, vice Capt. Kyle Rucker, Fourteenth Cavalry, who resigned January 22, 1917.

Second Lieut. Daniel A. Connor, Seventeenth Cavalry, to be first lieutenant from November 2, 1916, vice First Lieut. Hugh S. Johnson, First Cavalry, promoted.

PROVISIONAL APPOINTMENTS, BY TRANSFER, IN THE ARMY.

Second Lieut. Leander R. Hathaway, Sixteenth Cavalry, to be second lieutenant of Infantry, with rank from November 30, 1916.

Second Lieut. Athael B. Ellis, Sixth Infantry, to be second lieutenant of Cavalry, with rank from November 30, 1916.

PROMOTIONS IN THE NAVY.

Capt. Harry S. Knapp to be a rear admiral in the Navy from the 13th day of August, 1916.

Capt. William L. Rodgers to be a rear admiral in the Navy from the 29th day of August, 1916.

Commander Louis R. de Steiguer to be a captain in the Navy from the 10th day of August, 1916.

The following-named commanders to be captains in the Navy from the 29th day of August, 1916:

Louis A. Kaiser,
William C. Cole,
Carl T. Vogelgesang,
Charles B. McVay, jr.,
Julian L. Latimer, and
De Witt Blamer.

Commander John K. Robison to be a captain in the Navy from the 10th day of October, 1916.

Commander Henry H. Hough to be a captain in the Navy from the 1st day of January, 1917.

Lieut. Commander Earl P. Jessop to be a commander in the Navy from the 10th day of August, 1916.

The following-named lieutenant commanders to be commanders in the Navy from the 29th day of August, 1916:

Lyman A. Cotten,
William T. Tarrant,
Yancey S. Williams,
Charles P. Nelson,
Victor A. Kimberly,
Claude C. Bloch,
Edward C. Kalbfus,
Cyrus W. Cole, and
John W. Greenslade.

Lieut. Commander Harry L. Brinser to be a commander in the Navy from the 30th day of September, 1916.

Lieut. Commander James H. Tomb to be a commander in the Navy from the 1st day of January, 1917.

The following-named lieutenants to be lieutenant commanders in the Navy from the 29th day of August, 1916:

William Ancrum,
Benjamin K. Johnson,
Joseph V. Ogan,
Albert T. Church,
Logan Cresap,
John N. Ferguson,
Louis C. Farley,
Arthur C. Stott,
William S. McClinton,
Byron McCandless,
Roscoe C. MacFall, and
Robert L. Irvine.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 29th day of August, 1916:

Riley F. McConnell, and
Edmund D. Almy.

Boatswain Dallas Wait to be an ensign in the Navy from the 9th day of February, 1917.

Capt. Seth Williams, assistant quartermaster, to be an assistant quartermaster in the Marine Corps, with the rank of major, from the 29th day of August, 1916.

The following-named first lieutenants to be captains in the Marine Corps from the 29th day of August, 1916:

John L. Mayer, and
Benjamin A. Moeller.